

MONTANA LEGISLATIVE HISTORY

Chapter 322 19 89

Bill H 151 S \_\_\_\_\_ Original bill & history C

H. Committee on Business & Economic Development S. Committee on Business & Industry

Hearing Date(s) Jan 18 ☒ C Hearing Date(s) Mar 06 ☒ C

Feb 08 ☒ C

Mar 08 ☒ C

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\_\_\_\_\_ C

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Date Out Feb 08 ☒ C

Mar 08 ☒ C

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Did this bill originate in an interim committee?        Yes        No

Committee \_\_\_\_\_

Report \_\_\_\_\_

# HOUSE FINAL STATUS

|      |                                          |       |
|------|------------------------------------------|-------|
| 1/26 | COMMITTEE REPORT--BILL PASSED AS AMENDED |       |
| 1/28 | 2ND READING PASSED                       | 83 10 |
| 1/31 | 3RD READING PASSED                       | 86 11 |

TRANSMITTED TO SENATE  
 2/02 REFERRED TO HIGHWAYS & TRANSPORTATION  
 2/16 HEARING  
 DIED IN COMMITTEE

HB 150 INTRODUCED BY JOHNSON, ET AL.  
 REQUIRE FRANCHISE PROTECTION FOR SNOWMOBILE AND  
 OFF-HIGHWAY VEHICLE DEALERS

|      |                                             |      |
|------|---------------------------------------------|------|
| 1/13 | INTRODUCED                                  |      |
| 1/13 | REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT |      |
| 1/19 | HEARING                                     |      |
| 1/19 | COMMITTEE REPORT--BILL PASSED AS AMENDED    |      |
| 1/21 | 2ND READING PASSED                          | 91 0 |
| 1/24 | 3RD READING PASSED                          | 97 0 |

TRANSMITTED TO SENATE  
 1/25 REFERRED TO BUSINESS & INDUSTRY  
 1/27 HEARING  
 2/06 COMMITTEE REPORT--BILL CONCURRED AS AMENDED  
 2/10 2ND READING CONCURRED AS AMENDED 48 0  
 2/13 3RD READING CONCURRED 50 0

RETURNED TO HOUSE WITH AMENDMENTS  
 2/28 2ND READING AMENDMENTS CONCURRED 94 0  
 3/01 3RD READING AMENDMENTS CONCURRED 97 0

3/03 SIGNED BY SPEAKER  
 3/03 SIGNED BY PRESIDENT  
 3/03 TRANSMITTED TO GOVERNOR  
 3/07 SIGNED BY GOVERNOR  
 CHAPTER NUMBER 51 EFFECTIVE DATE: 3/07/89

HB 151 INTRODUCED BY SWIFT, ET AL.  
 ALLOW LIMITED BRANCH BANKING

|      |                                             |       |
|------|---------------------------------------------|-------|
| 1/13 | INTRODUCED                                  |       |
| 1/13 | REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT |       |
| 1/14 | FISCAL NOTE REQUESTED                       |       |
| 1/18 | HEARING                                     |       |
| 1/20 | FISCAL NOTE RECEIVED                        |       |
| 1/23 | FISCAL NOTE PRINTED                         |       |
| 2/08 | COMMITTEE REPORT--BILL PASSED AS AMENDED    |       |
| 2/10 | 2ND READING PASSED                          | 54 42 |
| 2/13 | 3RD READING PASSED                          | 60 36 |

TRANSMITTED TO SENATE  
 2/14 REFERRED TO BUSINESS & INDUSTRY  
 3/06 HEARING  
 3/08 COMMITTEE REPORT--BILL CONCURRED  
 3/10 2ND READING CONCURRED 33 16  
 3/13 3RD READING CONCURRED 32 17

RETURNED TO HOUSE  
 3/21 SIGNED BY SPEAKER  
 3/21 SIGNED BY PRESIDENT

# HOUSE FINAL STATUS

3/22 TRANSMITTED TO GOVERNOR  
 3/27 SIGNED BY GOVERNOR  
 CHAPTER NUMBER 322 EFFECTIVE DATE: 1/01/90

HB 152 INTRODUCED BY ADDY  
 REVISE YOUTH COURT MENTAL COMMITMENT  
 BY REQUEST OF DEPARTMENT OF FAMILY SERVICES

1/13 INTRODUCED  
 1/13 REFERRED TO JUDICIARY  
 1/25 HEARING  
 1/25 COMMITTEE REPORT--BILL PASSED  
 1/28 2ND READING PASSED 95 0  
 1/31 3RD READING PASSED 97 0

TRANSMITTED TO SENATE  
 2/02 REFERRED TO JUDICIARY  
 3/07 HEARING  
 3/07 COMMITTEE REPORT--BILL CONCURRED  
 3/08 2ND READING CONCURRED 49 0  
 3/10 3RD READING CONCURRED 48 0

RETURNED TO HOUSE  
 3/15 SIGNED BY SPEAKER  
 3/16 SIGNED BY PRESIDENT  
 3/16 TRANSMITTED TO GOVERNOR  
 3/21 SIGNED BY GOVERNOR  
 CHAPTER NUMBER 210 EFFECTIVE DATE: 7/01/89

HB 153 INTRODUCED BY SMITH, C., ET AL.  
 CLARIFY ATTORNEY NOT ALLOWED TO LIEN WORKERS'  
 COMPENSATION, OCCUPATION DISEASE BENEFITS  
 BY REQUEST OF WORKERS' COMPENSATION DIVISION

1/13 INTRODUCED  
 1/14 REFERRED TO JUDICIARY  
 1/24 HEARING  
 1/25 TABLED IN COMMITTEE

HB 154 INTRODUCED BY SMITH, C., ET AL.  
 ALLOW WORKERS' COMPENSATION JUDGE TO STAY EXECUTION  
 OF JUDGMENT PENDING APPEAL  
 BY REQUEST OF WORKERS' COMPENSATION DIVISION

1/13 INTRODUCED  
 1/14 REFERRED TO JUDICIARY  
 1/24 HEARING  
 1/30 COMMITTEE REPORT--BILL PASSED AS AMENDED  
 2/01 2ND READING PASSED 97 2  
 2/03 3RD READING PASSED 97 2

TRANSMITTED TO SENATE  
 2/04 REFERRED TO LABOR & EMPLOYMENT RELATIONS  
 2/28 HEARING  
 3/01 COMMITTEE REPORT--BILL CONCURRED AS AMENDED  
 3/03 2ND READING CONCURRED 48 0  
 3/06 3RD READING CONCURRED 50 0

RETURNED TO HOUSE  
 3/09 SIGNED BY SPEAKER

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT

Call to Order: By Bob Pavlovich, on January 18, 1989, at  
9:00 a.m.

#### ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Paul Verdon and Sue Pennington

Announcements/Discussion: Rep. Pavlovich stated some ground rules before starting the meeting. We will give the proponents of the bill one hour and the opponents of the bill one hour, and then we will go into questions and then we will give the sponsor of the bill the right to close. There will be no badgering from anybody in the audience, we will sit here and listen to everybody's testimony. We do have in the audience, I hope, Mr. Fred Flanders from the Banking Commission, he will be here for informational purposes only if somebody would like to ask him a question. We also have in the audience, Ken Nordtvedt, from the Department of Revenue, and he will be here to answer questions for anybody. We will open the hearing on HB 151.

#### HEARING ON HOUSE BILL 151

Presentation and Opening Statement by Sponsor: I am Rep. Swift, from District 64, Ravalli County. I appear here today as sponsor of HB 151. It gives me a great deal of pleasure to present to you today HB 151. As I look around at the committee, I see folks who were here in the past session and previous sessions before that and this same subject matter has been covered. So I am not going into too many details. I know you have the copy of the bill before you. But I do want to briefly go back through some of the key points that have come up in the past and say to you that for the past 20 years the out-of-state bank holding companies have been sort

of fighting with the independent bankers. In fact, some people have called this a civil war. I think it is about time in this session that we come to some conclusion on this particular question and hope we can get on with our business. The Montana Banker's Association represents all but 15 banks out of a total of 154 banks of all types and sizes in Montana and has developed a compromise which I think is a very good approach and should be a good vehicle to settle this matter now, because as I understand it two-thirds of the members of that association have been in agreement with this bill that you have before you today. I want to repeat that this is a compromise and have agreed that this is the best way to go so they can get on with their business. HB 151 allows the big banks like Norwest, FirstBanks, First InterState to merge and consolidate into one bank. But it does not allow those out-of-state holding companies to come into Montana and establish branches. That prevents them from buying up the banks in the state of Montana and protects some of the folks that we already have here. On the other hand, it does allow the small independent bank to merge and expand so they can grow and become more competitive in the communities that they serve, and be better able to serve those folks that they have been doing business with over the years, as businesses change. I think most of you realize that the big companies like Sears Roebuck, J.C. Penney, etc. the brokerage houses, and others are all today out after your money. And, of course, you go down to finance your house at the mortgage company, finance your car through the car dealer, and the savings and loans now are competing very strongly with our banking situation in Montana. They are all after that money. I guess I could use a well worn expression, if it looks and quacks like a duck, I call it a duck. And there are a lot of ducks in the financial game today. The reason we are here is to try to get a level playing field where all the smaller folks in the banking industry can play on the same level as the others. So as a result of this intensification in the financial community and what has happened in the past years, the earnings of these banks has fallen off considerably. I don't need to go back into '85 and '86, I think most of you realize that the financial community as well as some other things have been in a depressed condition. This is contributed somewhat to the problems we see today. In addition, Congress, as you well know, has heaped all kinds of laws, like the Community Reinvestment Act, and Funds Availability Act, on banks which has increased compliance costs for banks. Also, equipment costs have gone up just as it has in other business activity. So,

even processing checks and other things, have begun to cost more for these operations. Consequently we have got to look at something to give these people a little better competitive position in the community so they can continue to supply the services that they have in the past and do it in an efficient manner. Out of the 169 banks in Montana, about 100 are under 25 million dollars in size. That sounds like a lot of money but when you think in terms of capitalizing that 25 million dollars asset fees, you need to add 2 million dollars, so that makes it pretty tough to do anything in the business world related to transactions in the banking community in small banks. Guess you could ask the question why anyone would want to invest 2 million dollars in a bank that probably makes between 8 to maybe 10 percent now, when you can go down to the brokerage house or somewhere else without taking on a job mind you and get in excess of that 10 percent. And your investment will not have to work for it. These are just some of the problems that have risen over the years and where we find ourselves now. Just to reiterate, this is not a big banking bill, this is a bill to save the operation of a lot of our small banks in Montana and the independents. That is why we have so many folks here today to testify on this bill. I am not going in to the details of the bill itself. I think that will be brought out in the testimony.

List of Testifying Proponents and What Group They Represent:

John Cadby, Montana Bankers Association, Helena  
Mark Safty, Attorney, Billings and drafter of the bill  
Gary Carlson, CPA, Anderson-ZurMuehlen & Co., Helena  
Lynn Grobel, President of MBA & First National Bank,  
Glasgow  
Jim Bennett, President, First Citizens Bank, Billings  
Mike Grove, President, First National Bank of White  
Sulphur Springs  
Sam Dasios, Businessman, Troy  
Earl Lovick, Director, First National Bank, Libby  
Rock Ringling, Consumer, Helena  
John Witte, President, Traders State Bank, Hamilton  
Marty Olsson, Vice President, Ronan State Bank  
Sam Noel, Ex. Vice President, Citizens State Bank,  
Hamilton  
John Franklin, President, First United Bank, Sidney  
Bob Henry, President, First Security Bank, Missoula  
Verna Welch, President, Missoula Bank of Montana  
Bob Sizemore, President, Western Bank of Chinook  
Rod Smith, President, U.S. National Bank, Red Lodge  
Ken Hendrix, President, First National Bank, Twin  
Bridges

Larry Moore, Cashier, Stockmens Bank, Cascade  
 Clint Rouse, CEO, State Bank & Trust Co., Dillon  
 Don Oie, CEO, Citizens State Bank, Scobey  
 Rex Manuel, Montana Bancsystem and Bank System of  
 Montana  
 Bill Thorndal, President, First Security Bank of Laurel  
 Rep. Janet Moore

List of Testifying Opponents and What Group They Represent:

Gene Combes, First InterState Bank, Billings  
 Paul Caruso, Chairman of First Security Bank, Helena  
 Keith Colbo, Montana Independent Banker's Assoc.,  
 Helena  
 Wayne Gibson, First Security Bank, Bozeman  
 Myer Harris, Yellowstone Bank, Billings  
 Ray Brandewie, Montana Independent Bankers  
 Dick Bower, President, Valley Bank, Kalispell  
 Roger Tippy, Legal Counsel for Independent Bankers  
 Dennis DeVries, Vice President, Security State  
 Bank, Polson  
 Buster Schrieber, Chairman, Valley Bank, Belgrade  
 Tom Weaver, Bank West, Kalispell  
 Fred Garriety, Lake County Bank, St. Ignatius  
 Kent Harris, Yellowstone Bank, Laurel  
 Doug Morton, President, Bank West, Kalispell  
 Ron Ahlens, President, Montana Independent Bankers  
 Bruce MacKenzie, D.A. Davidson & Co.

Testimony: There was extensive testimony given in favor of  
 this bill as well as in opposition to it. See the  
 attached exhibits.

Questions From Committee Members: There were numerous  
 questions asked by the committee which were answered by  
 the many people who testified for this bill. Rep.  
 Simon had questions of Mr. Bennett and stated that  
 there was something he wanted to get on the record. He  
 stated that he and Mr. Bennett had known each other for  
 a number of years in the Billings business community  
 and we visited yesterday about this bill and I assured  
 you that I was going to try to maintain an open mind to  
 this particular piece of legislation and based on our  
 conversations and our long time friendship, do you  
 still have confidence that I still retain an open mind  
 on this bill? Mr. Bennett said he did. Rep. Simon  
 asked if Mr. Bennett was aware that Mr. Simon had  
 litigation pending against one of the system banks.  
 Mr. Bennett said he was aware of this. Rep. Simon  
 said, "and despite that I still have this pending  
 litigation, you believe that I will have an open mind."  
 Mr. Bennett said he believed that Rep. Simon would.

Rep. Simon thanked him and stated that he appreciated that. Mr. Bennett, we have heard about Fromberg two or three times here. Your bank is not very far away from Fromberg. You drive south on the highway towards Fromberg, if you blink you will end up six miles later in Bridger. Do you think Fromberg is a likely candidate for a bank to put a branch in? Mr. Bennett stated that had the bank in Fromberg not closed it would probably have become a branch of the bank in Bridger.

Closing by Sponsor: Rep. Swift closed as short as he could. There are a few points I would like to make in regards to the comments. First of all I find it rather peculiar that we have a banking system here, first of all I must say other than the DAD company's trust question, all these folks I understand are independent bankers. I find that some are opposing this bill and in other states they aren't merging their banks. I find that kind of peculiar but that is just for your consideration. Again, I want to bring to your attention a point that this bill does not require any bank to do anything. It doesn't require them to merge, it gives them that opportunity to do that if they see that that's appropriate for their particular system and their operation. I was pleased to see the testimony by Mr. Tippy. It was very sweet talk, but I want to point out one thing, actually when we talk about what is going to happen with the taxes that come out of the banking system that question is a point in time and however, you look at that and however the question you pose as was answered by Mr. Nordtvedt, whom I have confidence in. You can answer that any way you want to, you can show any answer you want to come up with point in time. I really want to keep that in mind, and I want you folks to keep that in mind in this committee. The other thing we must keep in mind at all times here when we are talking about these issues is what may or may not happen. I think you also heard Mr. Nordtvedt make the comment that over time this will balance out pretty well. Most of the bankers that I have talked to have said that in relation to the impact of the taxes. The other thing that we haven't really alluded to at least in the very strong terms of this piece of legislation is the fact that we still have the board of bank, the guides that direct what happens and I have some confidence that many of these things in question that we raised today would be looked at very closely and very strongly scrutinized. I just make that point that we don't lose track of this when we talk about the many things in the different banks and the different situations of these banks. This is not a



broad bill, it is confined to the state of Montana and it is confined to city and county areas. It is not going to expand everything and explode reactions in Montana. Basically, I want to say this bill applies to multi-banks, it allows them to merge and consolidate and is looked at by the board of banking and others. It will allow branches in a neighboring town. Banks would be allowed to have one detached drive-up. I want to bring to your attention that there are 47 states now that allow what we are talking about today. We in Montana are one of the four that are left and this bill will not allow any additional branches in localities that already have banks. Let's simply say that the rest of the country is liberalizing restrictions on banking while we in Montana are standing still. We are having difficulties in some areas with folks having convenient banking facilities and if you want to help Montana I think we need to change the regulatory lockup in the banking community. My plea today is at least pass this bill and let us debate it for the pros and cons and see if we can't help some of those communities today that are lacking banking facilities as we heard.

## DISPOSITION OF HOUSE BILL 151

Motion: None

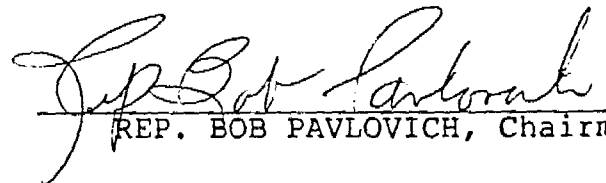
Discussion: This bill will be discussed in executive action  
Wednesday, January 25, 1989.

Amendments and Votes: None

Recommendation and Vote: None

## ADJOURNMENT

Adjournment At: 12:05 p.m.

  
REP. BOB PAVLOVICH, Chairman

DAILY ROLL CALL

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date 1 18 89

| NAME                   | PRESENT | ABSENT | EXCUSED |
|------------------------|---------|--------|---------|
| PAVLOVICH, BOB         | X       |        |         |
| DeMARS, GENE           | X       |        |         |
| BACHINI, BOB           | X       |        |         |
| BLOTKAMP, ROB          | X       |        |         |
| HANSEN, STELLA JEAN    | X       |        |         |
| JOHNSON, JOHN          | X       |        |         |
| KILPATRICK, TOM        | X       |        |         |
| McCORMICK, LLOYD "MAC" | X       |        |         |
| STEPPLER, DON          | X       |        |         |
|                        |         |        |         |
| GLASER, BILL           | X       |        |         |
| KELLER, VERNON         | X       |        |         |
| NELSON, THOMAS         | X       |        |         |
| SIMON, BRUCE           | X       |        |         |
| SMITH, CLYDE           | X       |        |         |
| THOMAS, FRED           | X       |        |         |
| WALLIN, NORM           | X       |        |         |
| PAUL VERDON            | X       |        |         |
|                        |         |        |         |
|                        |         |        |         |
|                        |         |        |         |
|                        |         |        |         |
|                        |         |        |         |

#1



**MONTANA  
BANKERS  
ASSOCIATION**

1 N. Last Chance Gulch  
Helena, MT. 59601  
(406)443-4121

January 11, 1989

TO: MONTANA LEGISLATURE

RE: MBA BANK RESTRUCTURE ACT & PUBLIC INTEREST

For years, liberalizing geographic restrictions on banks has been debated. The enclosed study concludes "Because these effects are almost uniformly positive, we believe further liberation is clearly in the public interest."

The principal fear is that banking markets will be dominated by fewer but larger firms. The study says, "For all local markets taken together average market concentration declined over the years 1970-1984. In fact, areas where branching laws were introduced after 1960, actually have more banking alternatives than those with less liberal branching laws."

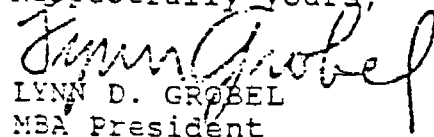
The removal of geographical restrictions enhances competition by achieving economies of scale, pricing services more competitively and making it more convenient for consumers to obtain services. The study shows, "That increased competition leads to more lending (presumably to higher risk customers), a greater array of services and an increase in services accessibility."

As to the impact on local communities the study states, "It is frequently argued that while larger banking organizations do have higher loan-to-asset ratios than unit banks, the loans are not reinvested in the local communities that were the original source of the deposits. However, it is important to realize that smaller banks also invest a large portion of their funds outside the local community. It is general practice for small banks to lend a significant portion of their funds to non-local banks through the federal funds market and to the US government through holdings of Treasury securities." Restrictive branching laws impede the flow of funds and in "areas of low net credit demand, discriminates against depositors (savers) in favor of borrowers."

As to safety and soundness, "The removal of geographic restrictions will lead to more diversified banks that are better able to withstand unexpected downturns in a particular industry."

As you can see, it is in the public interest to support the MBA Bank Restructure Act.

Respectfully yours,

  
LYNN D. GROBEL  
MBA President

IDG/sh

Enclosure

EXHIBIT

DATE

HB

1/13/89

151

ISSUES IN  
**BANK  
REGULATION**

BANK ADMINISTRATION INSTITUTE • SPRING 1988



*Geographic Deregulation, Banking and the Public Interest*

*Bank Charters: Reexamining Their Role*

*Swaps and Credit Risks*

# Geographic Deregulation in Banking and the Public Interest

Herbert Baer,  
Douglas D. Evanoff,  
Diana L. Fortier  
and

Larry R. Mote  
*Economists*  
Federal Reserve Bank  
Chicago, Illinois

**I**nterstate banking is no longer a prospect—it is reality. In many states, its arrival has been accompanied by another equally important but less heralded change—the removal of restrictions on intrastate branching. While it is generally agreed these changes will lead to larger banking organizations, there is disagreement about their effects on the level of competition in banking and the resulting impact on both consumers and commercial banks. In this article, we compare banking performance in different states and analyze the experience of foreign countries to draw conclusions about the likely effects of further removal of barriers to geographic expansion in banking. Because these effects are almost uniformly positive, we believe further liberalization is clearly in the public interest.

## Market Structure

Perhaps the most common argument presented in opposi-

tion to broader geographic expansion is that it will cause banking markets to be dominated by fewer but larger firms. This increase, it is feared, will encourage collusive behavior, leading to a misallocation of resources and exploitation of bank customers. Theory and a substantial amount of evidence suggest that the greater the number of firms and the less their size disparity, the lower the likelihood of collusion and monopolistic restriction of output. This common structure-conduct-performance paradigm states that the probability of noncompetitive behavior can be inferred from the number and size distribution of firms in the market.

Accepting the validity of the paradigm as a working hypothesis, the initial issue is whether allowing broader geographic expansion in banking will lead to concentration increases. Data on the relationship between branching status and local market concentration are presented

in Figure 1. They indicate that, for all local markets taken together, average concentration declined over the years, 1970–1984. However, concentration was essentially unchanged in markets in unit banking states, while it declined substantially in limited branching states and even more sharply in statewide branching states. By 1985, the absolute level of concentration was essentially the same across areas with different branching laws. This, however, represented a substantial change from earlier years and reflects, among other things, the benefits from branching.

The impact of branching restrictions was significantly different in rural and urban banking markets. The variation in average market concentration between states with different branching laws is rather minimal in

For a detailed review of related topics, see *Theory and Practice of National Banking*, Chicago: Federal Reserve Bank of Chicago, 1986.

Figure 1. Local Market Structure Data by Branching Status  
(Herfindahl Indexes and Three Bank Concentration Ratios)

| Type of Market           | Concentration Measure and Year | All States | Statewide Branching | Limited Branching | Unit Banking |
|--------------------------|--------------------------------|------------|---------------------|-------------------|--------------|
| All Markets              | HHI                            | 1970       | 4434                | 4918*             | 4384         |
|                          |                                | 1980       | 4079                | 4054              | 3975*        |
|                          |                                | 1983       | 4013                | 3947              | 3944         |
|                          |                                | 1984       | 4022                | 3912              | 4007         |
|                          | C <sub>3</sub>                 | 1970       | 88.5%               | 93.2%*            | 88.5%*       |
|                          |                                | 1980       | 86.9%               | 87.4%             | 86.6%        |
|                          |                                | 1983       | 86.6%               | 86.8%             | 86.6%        |
|                          |                                | 1984       | 86.7%               | 86.4%             | 86.9%        |
| Nonmetropolitan Counties | HHI                            | 1970       | 4698                | 5257*             | 4702*        |
|                          |                                | 1980       | 4340                | 4489              | 4182         |
|                          |                                | 1983       | 4269                | 4367              | 4148         |
|                          |                                | 1984       | 4277                | 4341              | 4180         |
|                          | C <sub>3</sub>                 | 1970       | 90.6%               | 95.3%*            | 91.1%*       |
|                          |                                | 1980       | 89.5%               | 91.8%*            | 88.5%*       |
|                          |                                | 1983       | 89.2%               | 91.3%*            | 88.5%*       |
|                          |                                | 1984       | 89.2%               | 91.0%*            | 88.4%*       |
| Metropolitan Areas       | HHI                            | 1970       | 2293                | 2731*             | 2295*        |
|                          |                                | 1980       | 1972                | 2024*             | 2081*        |
|                          |                                | 1983       | 1929                | 1986*             | 2068*        |
|                          |                                | 1984       | 1961                | 1983*             | 2128*        |
|                          | C <sub>3</sub>                 | 1970       | 71.4%               | 79.2%*            | 71.0%*       |
|                          |                                | 1980       | 66.1%               | 66.8%*            | 68.7%*       |
|                          |                                | 1983       | 65.4%               | 65.7%*            | 68.8%*       |
|                          |                                | 1984       | 66.2%               | 65.8%*            | 70.3%*       |

SOURCE: FDIC Summary of Deposit data as of June 30, 1970, 1980, 1983 and 1984.

\*Mean for statewide or limited branching states is significantly different at the .05 level from the mean for the given year for unit banking states.

rural markets. This suggests that further liberalizing entry by permitting interstate banking would probably have less impact on concentration in rural markets but would, if anything, lead to further decreases in concentration.

Urban markets in statewide branching states are more concentrated than their counterparts in unit banking states. However, this difference has also declined over time. It is not surprising that the level is higher in branching markets since, in urban markets with unit banking, an increase in the demand for banking services can be met only by opening new banks. This would naturally cause measured concentration to decline. But a decline in concentration that is solely the result of an artificial restriction need not lead to more competition and its result-

ing benefits. In fact, the higher concentration observed in urban markets in statewide branching states does not appear to be translated into poorer performance, i.e., service levels, etc.

The data presented in Figure 1 indicate that local market concentration does not differ significantly as a result of branching. However, viewing group averages can be somewhat deceiving given the significant differences in the makeup of banking markets. To adjust for this, additional analysis was undertaken to account for demographic differences between markets that may affect the demand for bank services and the stringency of antitrust enforcement in banking.

This analysis indicates that variables that proxy business attractiveness, such as popula-

tion and per capita income, are inversely related to market concentration levels. Similarly, the more stringent state regulatory agencies are in granting new charters, the higher the level of concentration. Finally, states that liberalized their branching laws prior to 1960 had significantly higher levels of concentration.

This differential is important because, prior to the 1960 Bank Merger Act, bank acquisitions and mergers were regulated by the states. The applicability of federal antitrust laws to bank mergers was uncertain until the 1963 Supreme Court decision in the *Philadelphia National Bank* case. After the Bank Merger Act subjected bank mergers to prior approval by the bank regulatory agencies, fewer mergers resulting in large increases in concen-

**Figure 2. Average Number of Banking Organizations Per Local Market**

| Totals                      | Organizations per banking market* |      |
|-----------------------------|-----------------------------------|------|
|                             | 1970                              | 1980 |
| All Markets                 | 5.32                              | 6.06 |
| Unit Banking Markets        | 5.55                              | 6.06 |
| Branching Markets           | 5.15                              | 6.05 |
| Legislated after 1960       | 5.72                              | 7.96 |
| Legislated before 1960      | 5.06                              | 5.29 |
| Unlimited Branching Markets | 4.84                              | 7.60 |
| Legislated after 1960       | 4.30                              | 9.45 |
| Legislated before 1960      | 5.06                              | 6.57 |
| Per Capita (x 1000)         |                                   |      |
| All Markets                 | .236                              | .232 |
| Unit Banking Markets        | .327                              | .342 |
| Branching Markets           | .167                              | .171 |
| Legislated after 1960       | .258                              | .227 |
| Legislated before 1960      | .152                              | .150 |
| Unlimited Branching Markets | .191                              | .186 |
| Legislated after 1960       | .270                              | .283 |
| Legislated before 1960      | .158                              | .160 |

\*Banking markets are defined as counties.

SOURCE: FDIC Summary of Deposits.

tration were allowed. After accounting for these factors, the impact of branching was considered; again, it was not found to influence market concentration.<sup>2</sup>

An alternative means of evaluating the impact of branching on market structure is to analyze the number of banking organizations per market. Data on the average number of banking organizations in local markets in 1970 and 1980 are presented in Figure 2. In 1970, the average

number of organizations (i.e., customer alternatives) was smaller in states allowing branching than in unit banking states. By 1980, this difference was negligible.

A closer analysis of those areas allowing branching prior to 1960 and those introducing it later reveals substantial differences. The average number of organizations is significantly smaller in regions where branching was introduced earlier. In fact, areas where branching laws were introduced after 1960 actually have more banking alternatives than those with less liberal branching laws. Additional analysis accounting for local market demographic differences adds support to these findings. It suggests that any initial negative impact of branching on the number of organizations is offset within a relatively short time period.<sup>3</sup>

An alternative argument against allowing broader branching emphasizes the experience of other countries that allow

nationwide banking. As Figure 3 suggests, in many countries that permit nationwide banking, the banking system is highly concentrated. Some observers claim that interstate banking will inevitably cause banking to become as concentrated in the United States as it is in Canada, France and the United Kingdom. However, other factors—including inappropriate product market definitions—have contributed to these countries' high measured concentration.<sup>4</sup>

Government policy plays a crucial role in determining the structure of a country's banking system. Prior to 1978, it was difficult for new competitors to enter the Canadian market, and Canadian thrifts are still prevented from offering a broad array of banking services.

In Britain, relatively relaxed antitrust procedures, together with limitations on thrift-lending powers, have led to extreme concentration in the retail market; meanwhile, the commercial market seems to be only modestly concentrated.

In France, the high concentration appears to be a deliberate outcome of postwar government policies that have actively encouraged the nationalization and consolidation of most of the country's banks.

Concentration has been lower when the regulators have permitted thrifts to compete aggressively with banks (Germany, Japan and the retail segment of the Canadian market) or have pursued an antitrust policy that more closely resembles that in the United States (Japan). Thus, the existence of nationwide banking alone does not explain the high levels of concentration observed in foreign countries and is not reason to expect the U.S. banking market to become dominated by a relatively few large banks.

<sup>2</sup>For a detailed discussion of these empirical findings, see Douglas D. Evanoff and Diana Fortier, "Geographic Deregulation of Banking: An Analysis of the Impact," in *Proceedings of a Conference on Bank Structure and Competition*, (Chicago: Federal Reserve Bank of Chicago, 1986), pp. 701-720.

<sup>3</sup>Findings in Evanoff and Fortier, op. cit., indicate that the initial decrease in the number of organizations resulting from introducing branching is offset after approximately three years as new entrants occur.

<sup>4</sup>For a discussion of concentration in these countries, see Herbert Baer and Larry More, "The Effects of Nationwide Banking on Concentration: Evidence From Abroad," in *Toward Nationwide Banking*, (Chicago: Federal Reserve Bank of Chicago, 1986), pp. 27-38.

## Competitive Impact of Allowing Broader Expansion

The removal of geographic restrictions on branching is expected to make banking more competitive for a number of reasons:

First, by making it easier to create larger banks, branching also makes it easier to achieve economies of scale or scope in banking.

Second, because branching makes it easier for outsiders to enter profitable markets, banks in these markets have strong incentives to price their services more competitively.

Third, elimination of branching restrictions makes it easier for banks to offer convenient delivery systems.

Finally, for a variety of reasons, banks that operate over a broad geographic area appear to have strong incentives to offer standard products at the same price throughout their office networks.

This analysis indicates that at the local banking market level, liberal branching laws have not led to increases in concentration. Apparently, antitrust policy and the reduction in barriers to entry have prevented such increases. If the reduction in barriers has increased competition, as economic theory would imply, it should be manifested in changes in bank profitability, service levels and prices.

**Profitability.** Evidence suggests that the removal of geographic restrictions reduces bank profitability. While differences appear to be substantial, reported figures represent average profit rates that may obscure firm or market differences. (See *Reports of Condition*, June 30, 1980-1985.) To isolate the effect of branching laws, additional analysis has been performed that controls for market differences (e.g., concentration,

**Figure 3. Five-Firm National Concentration Ratios for the U.S. and Five Countries with Nationwide Branching\***

|                          | Upper bound | Lower bound |
|--------------------------|-------------|-------------|
| Canada Commercial        | 85.0        | 70.7        |
| Canada Consumer          | 60.0        | 38.0        |
| France                   | 87.0        | 73.0        |
| Germany                  | 56.8        | 26.0        |
| Japan                    | 32.0        | 22.0        |
| United Kingdom           | 73.0        | 50.0        |
| United States Commercial | 19.0        | 14.0        |
| United States Consumer   | 9.7         | 7.0         |

\*Ranges are produced by altering the type of deposits and institutions included in the calculations. These are detailed by Herbert Baer and Larry Mote in "The Effects of Nationwide Banking on Concentration—the Evidence from Abroad" in *Toward Nationwide Banking*, Federal Reserve Bank of Chicago, 1986.

size, growth) and bank-specific differences (e.g., size, financial ratios). Controlling for these differences, banks in states with branching restrictions were again found to be more profitable than banks in states without restrictions. Of equal importance, concentration was found to be an important determinant of profitability in states that barred branching, but not in states that permitted branching. In these states, firm-specific efficiency seems to be a more important determinant of profitability.

**Service Accessibility.** The ability to expand geographically can also be expected to make it more convenient for customers to obtain services. More liberal entry will encourage the introduction of new firms, which will increase the number of offices available to service customer needs. Moreover, any economies of organization that permit a branch to operate on a smaller scale than is economic for a unit bank will cause the density of banking offices to be greater in states that permit branching.

In areas where branching is limited, there is a tendency to serve more persons per banking office, indicating a relative lack of consumer convenience. For

example, Illinois and Texas have the two highest population/banking office ratios in the United States. Illinois strictly limits the number of offices per bank and their locations, while Texas only began to permit branching in 1987. More sophisticated analysis indicates that, after accounting for demographic differences, local banking markets have 60% more offices per square mile when expansion via branching is allowed.<sup>8</sup>

**Service Levels.** Both the variety and quantity of bank services may be affected when restrictions on geographic expansion are relaxed. The variety of services will expand because geographic expansion allows banks to grow in size, and evidence suggests that larger banks

<sup>8</sup>The results were arrived at by estimation of a typical structure performance relationship for banks located in the continental United States in 1984. While similar results were generated estimating the relationship using a branching binary to account for expansion restrictions, statistical tests indicated that separate relationships should be estimated for banks in markets with different branch restrictions. For more detail, see Douglas D. Evanoff and Diana L. Fortier, "Reevaluation of the Structure-Conduct-Performance Paradigm in Banking," *Staff Memoranda* 87-9, Federal Reserve Bank of Chicago, 1987.

<sup>9</sup>For a discussion of this, see Douglas D. Evanoff, "Branch Banking and Service Accessibility," *Journal of Money, Credit, and Banking*, (May 1989), pp. 191-202.



Figure 4. Impact of Branching on the Average Price of Bank Services

|                                                      | (A)<br>Unit<br>Banking<br>States | (B)<br>Statewide<br>Branching<br>States | Expected<br>Difference<br>(A) - (B) | t-Value |
|------------------------------------------------------|----------------------------------|-----------------------------------------|-------------------------------------|---------|
| Average Service Fees<br>on Regular Checking Accounts | 2.5%*                            | 1.8%                                    | +                                   | 3.21    |
| Minimum Balance on<br>NOW Accounts                   | \$460*                           | \$339                                   | +                                   | 1.93    |
| Average Rate on<br>Consumer Loans                    | 13.83%                           | 13.87%                                  | +                                   | -.22    |
| Average Rate on<br>Real Estate Loans                 | 11.1%*                           | 10.8%                                   | +                                   | 1.89    |

Averages based on data for approximately 500 banks.

\*Indicates the fee rate is significantly larger than its counterpart—5% level of statistical significance. Data are from the Federal Reserve Functional Cost Analysis.

offer a wider array of services? As this occurs, local, perhaps smaller institutions will expand their service offerings to compete with the new entrants.

One would also expect the quantity of output to rise in areas allowing expansion. Customer and geographic diversification by multioffice banks should lower risk, resulting in less need for liquidity and making additional lending more attractive. Smaller, less diversified institutions generally hold a larger portion of assets as deposits at other banks or in investment securities. These non-loan assets are held to maintain liquidity, offset the greater risk resulting from an undiversified loan portfolio and obtain the yield available in national money markets because it may exceed the marginal yield realized on local loans.

There is evidence supporting these contentions. For example,

the "fed funds sold plus Treasury securities"-to-asset ratio decreases with institution size, suggesting that because larger institutions have less need to hold liquid assets, they are able to make more loans. This relationship is seen more directly in the loan-to-asset ratio, which increases with bank size. However, even within most size groups, the ability to expand within a state via branching produces higher loan-to-asset ratios. Banks in states with liberal branching laws also have the highest noncorporate loan-to-asset ratios, indicating branching leads to improved servicing of consumer loan needs.

Prices. If the quality of bank services remains unchanged, more competition (found in areas without barriers) should result in lower rates on loans and/or higher rates on deposits. However, it has been shown that increased competition leads to more lending (presumably to higher risk customers), a greater array of services and an increase in service accessibility. This improved service may be expected

to partially eliminate any preferred price differential in the more competitive markets.

Figure 4 provides information on the impact of geographic restrictions on bank pricing of certain types of loans and deposits. Service charges, minimum balance requirements and rates on real estate loans are significantly lower in statewide branching states than in unit banking states. Additional analysis, however, indicates the removal of geographic restrictions does not appear to lead to across-the-board increases in deposit rates.

In markets with less than \$2.5 billion in bank deposits, moving from unit banking to statewide branching tends to raise CD rates and leave rates on MMDAs and Super NOW accounts unchanged.

In markets with more than \$100 billion in bank deposits, moving from unit banking to statewide branching tends to leave rates on CDs unchanged and actually lowers rates on MMDAs and Super NOW accounts.

\*See Eric Rose, James Kulari, and Kenneth W. Reimer, "A National Survey Study of Bank Services and Prices Arranged By Size and Structure," *Journal of Bank Research*, Summer 1985, pp. 72-87.

While the removal of geographic restrictions has not been shown to have a clear-cut effect on deposit or consumer loan rates, it does have the positive side effect of broadening the size of banking markets. Research has shown that deposit rates within SMSAs are considerably more uniform in branching states than in unit banking states.<sup>8</sup>

In fact, in statewide branching states, the market for some consumer deposits appears to be statewide, driven by conditions in the larger cities where competition would be strong even in the presence of branching restrictions.<sup>9</sup> Just as statewide branching causes deposit rates to reflect conditions in a state's most competitive markets, interstate banking would tend to cause deposit rates to reflect conditions in the nation's most competitive markets.

### Impact on the Local Community

It is frequently argued that, while larger banking organizations (made possible by the relaxation of geographic restrictions) do have higher loan-to-asset ratios than unit banks, the loans are not reinvested in the local communities that were the original source of the deposits. However, it is important to realize that smaller banks also invest a large portion of their funds outside the local community. It is general practice for small banks to lend a significant portion of their funds to nonlocal banks through the federal funds market and to the U.S. government through holdings of Treasury securities. This occurs in large part because lending opportunities within the local community are less profitable than those in other localities.<sup>10</sup> It may also occur because the banks need to diversify their portfolios

with loans from outside the local area.

Generally, banks with under \$50 million in total deposits tend to be net suppliers of fed funds to the rest of the banking system, while the larger banks are net purchasers of fed funds. Not only are small banks net lenders of these funds, but their level of fed funds sold and holdings of Treasury securities as a percentage of total deposits is the highest of any bank-size category. Thus, small banks appear to be responding to the same financial incentives that affect larger banks. Bank performance data suggests that, holding size constant, small banks in unit banking states sell more fed funds than do banks in branching states. This suggests that small banks would lend more in local markets if branching restrictions were relaxed.

Branch or holding company banks also appear to be more efficient than unit banks in moving funds to where they are most needed. There are two types of evidence that support such a conclusion. The first was contained in a study in the late 1960s that compared the loan-to-deposit ratios of unit banks and individual branches of a large California branch bank in the same towns. Not only was the average loan-to-deposit ratio higher for the branches, but the variance was much greater, indicating that some branches were serving primarily as deposit gatherers and others as lending outlets. Additional evidence is the consistent finding that pricing tends to be much more uniform in areas where branching is permitted. This implies that credit is being allocated more efficiently between markets so as to equalize rates of return and may result in a flow of funds from rural to urban areas.<sup>11</sup>

However, it is precisely this greater mobility or "siphoning" of funds from areas of low net credit demand to areas of high credit demand that is objected to by many critics of branch banking. But this transfer is neither reprehensible nor regrettable. It is the manifestation of the efficient operation of a broad credit market. Any attempt to "keep funds at home," whether through restrictive branching laws or other impediments to the flow of funds, both impairs national economic efficiency and, in areas of low net credit demand, discriminates against depositors in favor of borrowers.

In lines of commerce other than banking, it has long been national policy to oppose such interferences with trade. Banking is one of the few industries in which there is a significant degree of autarky by states and localities. Indeed, federal banking law tends to reinforce the practice. The clauses referring to the "convenience and needs of the community" in the Bank Merger Act and Bank Holding Company Act have consistently been interpreted to refer to the particular communities in which

<sup>8</sup>For example, see Franklin R. Edwards, "The Banking Competition Controversy," *National Banking Review*, vol. 3, September 1963, pp. 1-34.

<sup>9</sup>See Michael G. Keeley, "Determining Geographic Markets for Deposit Competition in Banking," *Economic Review*, Federal Reserve Bank of San Francisco (Summer 1983), pp. 23-45.

<sup>10</sup>It has also been shown that small banks obtain a larger portion of their funds locally. Thus, they both obtain more locally than do larger banks and send more out of the market via the federal funds market. See Constance Dunham, "Interstate Banking and the Outflow of Local Funds," *New England Economic Review*, Federal Reserve Bank of Boston (March/April 1986), pp. 7-19.

<sup>11</sup>For a discussion of this literature, see Verle Johnston, "Competitive Performance of Unit and Branch Banks," *Proceedings of a Conference on Bank Structure and Competition* (Chicago: Federal Reserve Bank of Chicago, 1967), pp. 12-14; Franklin Edwards, op. cit.; Matthew Shane, *The Flow of Funds through the Commercial Banking System*, Station Bulletin 506 (St. Paul: Agricultural Experiment Station, 1972).

the concerned banking offices are located. This ignores the fact that the broader community might be better served if loanable funds were lent where they are most needed.

### Safety and Soundness

Safety and soundness considerations played, at most, a secondary role in the adoption of both federal and state restrictions on branching. These restrictions are largely the province of the states and predate the major source of safety and soundness legislation—the banking crisis of the 1930s. Nevertheless, policy towards geographic expansion does have implications for the safety and soundness of the banking system.

In the pre-Depression era, branch banks had proportionately fewer failures than unit banks. This difference in failure rates was frequently attributed to the diversification permitted by the larger size and greater geographic scope of branch banks. It is not surprising that this relationship seems to have disappeared in the post-FDIC period since regulators have frequently permitted troubled banks to remain open as long as runs do not take place. Because deposit insurance eliminates the incentive for most depositors to run, we would expect that differences in bank failure rates would be less dramatic or even nonexistent.<sup>17</sup> Therefore, when deposit insurance is available, removal of barriers to geographic expansion is not ex-

pected to have a significant impact on the probability of failure.

One means by which branch restrictions may affect bank safety and soundness is through

geographic expansion has one other consequence for bank safety and soundness. If regulators consider some banks "too big to fail," more banks will gain access to *de facto* 100% deposit

*"Although we have serious doubts about the wisdom of the 'too big to fail' policy, those who accept it must deal with the potential for consolidation created by interstate banking."*

their impact on the ability of the bank to manage its portfolio. Geographic restrictions clearly make it difficult for banks to diversify their loan portfolios. Federal Reserve data on bank lending by industry for banks with assets in excess of \$1 billion was collected for 1982 and used to compute an index of loan portfolio diversification. The more diversified (less concentrated) the portfolios across different industries, the lower the index.

Industrial diversification varies with bank size and branching status. Large banks are more diversified than small banks, and banks in states with liberal branching laws are more diversified than banks burdened with greater geographic restrictions. Once again, the burden of the restrictions is two-fold. Not only do they create an artificially large number of nondiversified small banks, but behavior is affected even among banks of similar size. The implication is clear: The removal of geographic restrictions will lead to more diversified banks that are better able to withstand unexpected downturns in a particular industry.

Relaxation of barriers to geo-

insurance as the average size of banks and bank holding companies continues to grow. This would eliminate market discipline and create incentives for excessive risk taking.

Although we have serious doubts about the wisdom of the "too big to fail" policy, those who accept it must deal with the potential for consolidation created by interstate banking. One approach would be to place limits on the absolute size of banking organizations. Another would be to relate deposit insurance premiums or capital ratios to bank size to account for the differential in coverage. The basic problem is that deposit insurance has sharply eroded the banking industry's exposure to market discipline. If deposit insurance were properly priced, there would be no incentives for excessive risk taking, and consolidation in the industry would not pose a problem.

### Conclusion

Economic theory and empirical evidence suggest that the consumer is best served when competition is keen and there are few barriers to entry. The evidence also indicates that removal of intrastate restrictions

<sup>17</sup>If a relationship does exist, it would appear that branching is still conducive to safety and soundness. For example, between 1974-1981, 23%, 32%, and 45% of failed institutions were in statewide branching, limited branching and unit banking states, respectively. The percentage of unit banks failing was also twice that of branch banks. However, this association does not imply causation, and it is more likely that failure is caused by poor management or fraud.

on branching is procompetitive. Liberalization of restrictions on intrastate branching has been shown to increase bank lending, increase bank portfolio diversification, lower profitability, and improve customer convenience through a dramatic increase in the number of bank offices. There is no reason to believe that the impact of interstate banking would be qualitatively different.<sup>13</sup>

Removal of restrictions on intrastate branching is not expected to appreciably increase concentration in most local banking markets. Shifts from limited branching to statewide branching or from statewide branching to interstate banking could even lead to decreases in market concentration in nonur-

ban markets, although the impact of interstate banking might be relatively small.

An examination of the experience of other countries suggests that concentration would not reach worrisome levels as long as new charters are easily obtained and thrifts are permitted to offer a wide range of banking services. Concerning the viability of commercial banks, broadening geographic expansion will allow institutions to become more diversified with respect to banking markets, customers and industrial sectors. This should result in safer institutions. The evidence, in toto, strongly supports the continuation of recent efforts to eliminate barriers to geographic expansion in banking.

*The authors are economists at the Federal Reserve Bank of Chicago. The views expressed are those of the authors and do not necessarily reflect those of the Federal Reserve Bank of Chicago.*

<sup>13</sup>While most of the evidence presented in this article focuses on the benefits of liberalizing branching restrictions, studies of the effects of expansion by bank holding companies reveal similar, if somewhat weaker, results. The studies conclude that entry by bank holding companies modestly improves performance. For example, see John T. Rine, "Bank Holding Company Affiliation and Market Share Performance," *Journal of Monetary Economics*, vol. 9 (January 1982), pp. 109-19; and John T. Rose and Donald Savage, "Bank Holding Company De Novo Entry and Banking Market Decentralization," *Journal of Bank Research*, vol. 13 (Summer 1982), pp. 96-100.

22

HOUSE BILL 151  
BANK RESTRUCTURE ACT  
20 QUESTION & ANSWERS

BY MONTANA BANKERS ASSOCIATION

BANKING

1. What about local control?

Owners and management of ALL banks establish loan authority and other policies today as they have in the past. Whether it is bank or a branch does not make any difference. Banks usually rely on a Community Advisory Board for branches. Some family owned banks only have family members on their boards.

2. What does a bank board do?

Most financial institutions have a local Board for counsel and to help market services. Community Advisor Boards are used with branches for the same purpose but without fiduciary liability for the directors.

3. Where are deposits invested?

Deposits of ALL financial providers are invested for yield and liquidity. ALL banks prefer to make local loans for higher yields and to help the community grow. All financial providers invest excess deposits outside their community just like individuals, businesses, schools and governments.

4. Who approves loans?

In all banks and branches, every officer has a loan authority limit established by the owners and management. Loans in excess of that amount are approved by senior management and owners whether it is a branch or bank (or group of banks) which may be owned by an individual or a family (who may live in-state or out-of-state), or shareholders of publicly traded stock in large multi-state systems.

5. Why are some banks opposed to change?

All there is to fear is fear itself. Progressively minded bankers recognize the need to grow to get economies of scale to be competitive with other financial providers. HB-151 bill allows small locally owned independent banks to expand, thereby making them stronger and more competitive.

6. What if I want to sell my bank?

This bill enhances the salability of a bank to other Montana bank(s) through a merger and exchange of stock. Since deregulation in 1980 the value of small non-publicly traded bank stock has dropped about half due to a decrease in market share and earnings.

EXHIBIT 2  
DATE 11/18/89  
HB 151

7. Does HB-151 hurt any bank?

No.

8. What has been the experience elsewhere?

South Dakota has had statewide branching for 30 years. They still have 135 banks (129 are independent) but also have 150 branches for a total of 280 outlets compared to Montana's 170. Their population is approximately 100,000 fewer than Montana, yet there is greater consumer convenience. SD also has about the same number of credit unions, savings & loans, and other financial providers.

North Dakota allowed mergers in 1987. Since then First Bank and Norwest have merged reducing the number of banks from 177 to 160. They also have 75 branches for 235 outlets, or 65 more outlets for 200,000 fewer people than Montana. They also have 75 credit unions and 6 S&L's with 80 branches.

Wyoming allowed mergers in 1987 which has been taken advantage of by two major bank systems. Failed banks may be operated as branches.

Kansas passed a merger/branching law in 1987. Most branching activity has been done by small community banks.

Nationally, there are still 13,500 banks and over 58,000 banking outlets, in spite of a loss of 700 failed banks, and interstate banking and statewide branching in most states. New independent banks are constantly being chartered where investors see a need or opportunity.

9. Do other states allow branching?

Thirty states allow statewide branching, 3 states allow national banks to branch statewide de novo as a result of court rulings and 13 states have branch banking within limited areas. Most geographical restrictions have been dropped or will be dropped. Montana has been the only state to go backwards by repealing a law allowing mergers with banks in adjoining counties in 1969. This was after a bank in Butte and Anaconda merged, thereby creating the one bank branch in Montana.

10. What does HB-151 allow? (Upon approval of state banking board)

1. All multi-banks (2 or more) to merge or consolidate.
2. A branch in any neighboring town now without a bank.
3. Buying a failed bank and making it a branch.
4. Banks to have one detached drive-up in suburbs.
5. Placement of automated teller machines anywhere in the county and contiguous counties.

11. What does HB-151 not allow?

1. Interstate banking (now allowed in 47 states). No out-of-state bank can buy a bank in Montana (unless it failed) such as First Bank, Norwest, or First Interstate Bancorporation.
2. Branching denovo. No bank can branch in any town which has a bank.

#### TAXES

12. Does the MBA bill change the tax structure on banks?

No.

13. Do mergers change the amount of income tax revenue paid by banks?

Could increase taxes if a bank merged thus forfeiting a net operating loss carry forward. If a bank did not merge the NOL would be deducted from future earnings the same as today. Over the years, a diversified system of banks like a diversified portfolio of stock is more stable than a single bank or single stock. Taxes on earnings of any business are unpredictable.

14. What effect does mergers have on taxes?

The state corporation license (income) 6-3/4% tax on all corporations doing business in Montana requires only banks and S&L's to share 80% of said tax with local government. Distribution is based on deposits in the branch(s) to the total deposits within the bank or S&L. Taxes are shared with all cities and school districts within the county. DOR has administered this distribution system for 11 S&L's and 35 branches and one bank branch for 10 years.

15. What happens if there is a loss?

Any corporation may get tax refunds back 3 years and carry forward said losses up to 7 years. Since bank and S&L income taxes are shared with local government, counties must make the tax refund even though said taxes have already been distributed to cities and schools and spent up to 4 years previously. On the other hand, any corporations who merge, all net operating losses carry forward are forfeited thereby potentially increasing tax revenue for government.

#### PUBLIC INTEREST

16. What has deregulation done to banking?

Since 1980, deregulation has taken off ceilings on all interest rates to both savers and borrowers and allowed others to provide financial services such as Sears, stock brokers, realtors, insurance agents, insurance companies, mortgage companies, finance companies, etc.

Since 1980, the average return on equity for commercial banks nationally has dropped from approximately 14% to 8%. Market share has been steadily dropping and is now down to 29%. Market share in money market funds and other financial providers has steadily increased (doubled in MT Credit unions past 5 years).

17. Are banks competitive?

Banks are still perceived as a public utility and not as a competitor for financial services. As a result, all banks must comply with a host of federal laws and are prevented from selling other financial services such as insurance, securities and real estate. Equipment and compliance costs and geographic restrictions are strangling small banks.

18. How has deregulation affected the consumer?

Deregulation has created more providers of financial services at different prices for the consumer to shop. As a result, the consumer weighs risk, convenience, service and price when deciding where to invest his savings, borrow money, or purchase a financial product like insurance or securities.

19. How does the MBA bill help the consumer?

It enhances competition on interest rates and fees. It provides more convenient outlets. It lets the market place decide which financial provider will succeed, whether it is a bank, S&L, credit union, stock broker, retailer, realtor, insurance agent, mortgage company or finance company. It diversifies and strengthens the banks assuring greater safety and soundness.

20. How does the MBA bill help the economy?

It allows larger loan limits by combining capital for major loans to corporations. Increased competition leads to more lending.

**BOTTOM LINE:** The Management of any business, bank or branch, independent or system, large or small, national or local, ultimately determines its success or failure. That's what a free market place is all about. Please let banks compete.



3

INDEPENDENT BANKERS AND OTHERS

TESTIFYING FOR HB-151

BANK RESTRUCTURE ACT  
BY MONTANA BANKERS ASSOCIATION

EXHIBIT 3  
DATE 1/18/89  
HB 151

House Business  
& Economic Development Committee

9:00 a.m.  
Jan. 18, 1989

Rep. Bernie Swift, Hamilton  
John Cadby, EVP, (MBA), Montana Bankers Association, Helena  
Mark Safty, Attorney, Billings & drafter of the bill  
Gary Carlson, CPA, Anderson-ZurMuehlen & Co., Helena  
Lynn Grobel, President of MBA and First National Bank, Glasgow  
Jim Bennett, Imm. Past President of MBA & President, First Citizens Bank, Billings  
Mike Grove, President, First National Bank of White Sul. Springs  
Sam Dasios, Businessman, Troy, MT  
Earl Lovick, Director, First National Bank, Libby  
Rock Ringling, Consumer, Helena  
John Witte, President, Traders State Bank, Poplar  
Marty Olsson, VP, Ronan State Bank  
Sam Noel, EVP, Citizens State Bank, Hamilton  
John Franklin, President, First United Bank, Sidney  
Bob Henry, President, First Security Bank, Missoula  
Verna Welch, President, Missoula Bank of Montana  
Bob Sizemore, President, Western Bank of Chinook  
Rod Smith, President, U.S. National Bank, Red Lodge  
Ken Hendrix, President, First National Bank, Twin Bridges  
Larry Moore, Cashier, Stockmens Bank, Cascade  
Clint Rouse, CEO, State Bank & Trust Co., Dillon  
Don Oie, CEO, Citizens State Bank, Scobey  
Rex Manuel, Former Legislator representing Montana Bancsystem and Bank System of Montana  
Bill Thorndal, President, First Security Bank of Laurel

Letters of support from those who could not be present:

Richard Duncan, Banking Commissioner of South Dakota  
John A. Dowdall, President, First Citizens Bank, Polson and former Commissioner of Financial Institutions for Montana.  
Alan Pearson, President, Citizens Bank of Montana, Havre  
Thomas Hagen, President, First Fidelity Bank, Glendive  
Michael Miller, President, First National Bank, Wolf Point  
Bill Kearns, President, State Bank of Townsend  
Robert J. Gersack, President, First National Park Bank, Livingston  
Carl B. Bear, President, InterWest Bank of Montana, Bozeman  
H. Richard Hansen, EVP, Farmers State Bank, Worden  
John D. Lawrence Jr., President, Farmers State Bank, Worden  
R.D. Aanenson, VP/Cashier, First Citizens Bank, Bozeman  
Richard K. Sinclair, EVP, First National Bank, Hysham  
Bruce B. Ellis, Chairman/CEO, Montana Bancsystem, Inc., Billings  
Albert A. Martens, President, First State Bank, Forsyth

38 Total - 97 banks, a majority of Montana's banks voted for HB-151.



**Department of Commerce and Regulation**  
**DIVISION OF BANKING**  
 State Capitol -- 500 East Capitol  
 Pierre, South Dakota 57501-5070  
 Phone 605/773-3421



January 12, 1989

| TO           | INITIAL | CHECK                        | NAME |
|--------------|---------|------------------------------|------|
| .....John    | .....   | .....For Your Information    |      |
| .....Neysha  | .....   | .....Mail Copy To.....       |      |
| .....Dorella | .....   | .....Handle It.....          |      |
| .....Sharon  | .....   | .....Return Original To..... |      |
| .....Eev     | .....   | .....File.....               |      |
| .....Lyn     | .....   |                              |      |

Jim Cadby  
 Executive Vice President  
 Montana Bankers Association  
 1 No. Last Chance Gulch  
 Helena, Montana 59601

Dear Mr. Cadby:

This letter is written in response to your inquiry regarding the significance of branch banking in South Dakota.

As the chief regulator of state chartered banks in our state, I am primarily concerned with the safety and soundness of our banks as well as seeing to it that the people of South Dakota receive good banking service.

We have had a liberal branch banking law for a number of years. The benefits of this law can be seen almost daily in South Dakota.

Most of the banks in small communities are facing an earnings squeeze because of federal laws that have deregulated banking and have allowed everyone to get into banking activities, as for example, auto companies on auto financing, insurance companies who now receive many of the deposit accounts that used to go to local banks and who now make loans that used to be made by local banks.

Between credit cards and the Federal Farm Credit Services, a substantial amount of business is being shifted away from banks to other entities.

The principal owners of many small independent banks in South Dakota have, for various reasons, sold their banks to other area banks, many of which are also independent banks. Some bankers have sold because they want to retire and they have no one who wants to take over, or because the banks have become less profitable because of deregulation, etc. Most of those smaller banks are made branches of other area banks. Without branching authority, the owners of these

January 12, 1989

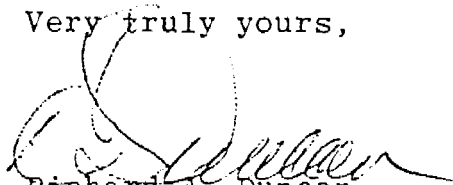
smaller institutions would, in most cases, not have a market to sell their bank, since in most cases only other area banks are interested in these institutions.

Without branch banking many of these banks would have to close, thereby depriving the smaller communities of banking services, or the banks would remain open as economically unfeasible institutions, which would ultimately fail or become so small as to be unable to service the borrowing needs of the community.

I might add that concerns that large banking concerns, such as Norwest and First Bank, would gobble up the smaller independent banks has proved to be unfounded. In fact, Norwest and First Bank have sold off a number of their branches to smaller independent banks because they found they could not be competitive with a well run local bank facility.

For these and other reasons, I strongly feel that branch banking has been, and will continue to be, an important part of keeping banks in South Dakota strong and in servicing small communities in our state.

Very truly yours,



Richard A. Duncan  
Director of Banking

RAD:jmp



**1st CITIZENS BANK**  
**of polson**

213 1st STREET WEST / POLSON, MONTANA 59860

January 13, 1988

Mr. John Cadby  
Montana Bankers Association  
1 N. Last Chance Gulch  
Helena, Montana 59601

Dear John:

This is to inform you that I support the Montana Bankers Association's approach to branch banking.

I've been in banking over 30 years and I'm mighty tired of this constant wrangling between bankers. I would remind you, I was Superintendent of Banks for the State of Montana under Forrest Anderson, 1969-1973, and got a real in-depth look at banking in Montana at that time.

I have always felt the bankers have been fighting the wrong fight. My fellow bankers should be more concerned about Savings & Loan Association and Credit Union branching than bank branching. I have talked with numerous bankers in branching states and from those conversations, and from my years of banking experience, I have concluded, it is now time for branching in Montana. We should always remember that banking is not for bankers but for the people. The people give us the charters and they should be served. Branching will do a better job of serving the people.

Sincerely yours,

John A. Dowdall  
President

JAD:se



**CITIZENS  
BANK OF MONTANA**

P. O. BOX 231, HAVRE, MONTANA 59501

January 12, 1989

John T. Cadby  
Executive Vice President  
Montana Bankers Association  
1 North Last Chance Gulch  
Helena, Montana 59601

RE: Bank Structure, Merger / Consolidation Bill

Dear John,

I had plans to personally testify in support of the above described legislation before the House Business & Labor Committee hearing on January 18, 1989, however that is the same date of the Annual Meeting of Citizens Bank of Montana, therefore I will not be able to attend.

Although I will not be able to attend the hearing, this letter authorizes the Montana Bankers Association on behalf of Citizens Bank to voice our strong support in favor of the Bank Structure Bill.

Approval of this legislation will make Montana's Banks more competitive and allow them to survive during these tough economic times. Passage of this Bill would also provide banking services to communities that do not have a financial institution at this time. Montana Banks need the flexibility to deal with their problems. Several banks in Montana are in financial trouble as indicated by our large percent of non - performing loans and low bank earnings.

Groups and task forces from out of State as well as in State have called for modernization of Montana's Banking Laws. These recommendations, included in the Bank Structure Bill can only make Montana's economy stronger, while protecting rural Montana communities from losing its banks.

Thank you for your assistance in getting this important piece of legislation passed in this session of the Legislature.

Sincerely Yours,

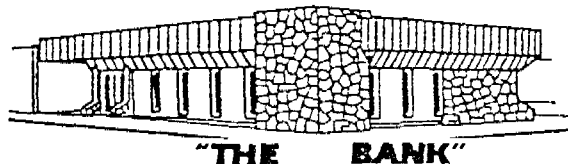
Alan L. Pearson  
President

ALP:mkr

CC: Bob Bachini  
State Representative  
Capital Station  
Helena, Montana 59620

# First Fidelity Bank

319 N. Merrill Ave.  
P.O. Box 811  
Glendive, Montana 59330  
406-365-8282



January 12, 1989

John Cadby  
Executive Vice President  
Montana Bankers Association  
1 N. Last Chance Gulch  
Helena, MT 59601

Dear John:

This is just a brief letter to tell you that our Bank is in support of the MBA Bank Restructuring Act. By the time you receive this letter, I will have had an opportunity to voice our support to our representative in Helena, John Johnson.

If I can be of any future service, please do not hesitate to call on me.

Sincerely yours,

  
Thomas Y. Hagan  
President

TYH:lmh

PERRY O. KING  
VICE PRESIDENT  
AGRICULTURAL LOAN DEPARTMENT

THOMAS Y. HAGAN  
PRESIDENT - C.E.O.

JAMES M. CARTER  
VICE PRESIDENT  
CASHIER

SHELLY CHRISTIANSON  
ASSISTANT CASHIER  
OPERATIONS OFFICER

TIMOTHY J. WALL  
ASSISTANT CASHIER  
INSTALLMENT LOAN DEPARTMENT



Box 698, Wolf Point, Montana 59201 (406) 653-2010

January 12, 1989

John Cadby, Executive Vice President  
Montana Bankers Association  
1 North Last Chance Gulch  
Helena, Montana 59601

Dear Mr. Cadby,

This letter is to express my support of the Montana Bankers Association Bank Restructuring Act which our Montana Legislators will soon be considering. I feel that this bill will be beneficial to the future structuring of Banks in our state and will allow Banks an opportunity to provide improved service to their customers.

Sincerely,

Michael D. Miller  
President  
Citizens First National Bank of Wolf Point

MDM:lw



# THE STATE BANK OF TOWNSEND

SINCE 1899

P.O. Box 488 • Townsend, Montana 59644  
Telephone (406) 266-3176 • (406) 442-2472

January 12, 1989

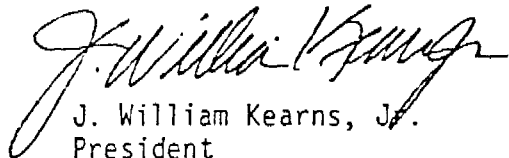
House Business Administration Committee  
State Capitol  
Helena, MT. 59601

Dear Committee:

The State Bank of Townsend supports the Bank Restructure Bill (Bill #HB19) and urges your approval of this legislation.

Thank you for your consideration of this request.

Sincerely yours,



J. William Kearns, Jr.  
President

JWKJr:rkn





# First National Park Bank

First National Park Bank in Livingston  
P.O. Box 672  
Livingston, Montana 59047  
406 222-2950

January 13, 1989

Montana Bankers Association  
1 North Last Chance Gulch  
Helena, MT 59601  
Attention: John Cadby

Dear John,

The Directors and Officers of The First National Park Bank in Livingston, Montana, whole-heartedly support the Montana Bankers Association Bank Restructuring Act. If we are unable to attend the committee hearing scheduled for Wednesday, January 18, to personally express our support for the MBA Bank Restructuring Act, we would ask that you convey our support to the committee.

Thank you.

Sincerely Yours,

Robert J. Gersack  
President

RJG/nh



January 13, 1989

Mr. John T. Cadby  
Executive Vice President  
Montana Bankers Association  
1 North Last Chance Gulch  
Helena, MT 59601

Dear John:

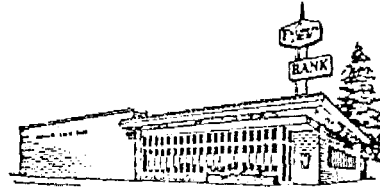
It is long overdue for the Montana Banking Industry to get in step with the rest of the country.

As such, InterWest Bank is in full support of the Bank Restructuring Bill recently introduced by the Montana Bankers' Association as HB 151.

Yours truly,

A handwritten signature in cursive script, appearing to read "Carl B. Bear".

Carl B. Bear  
President



TELEPHONE 967-3612

• WORDEN, MONTANA 59088

JOHN D. LAWRENCE, JR.

H. RICHARD HANSEN

January 12, 1989

John T. Cadby  
Executive Vice President  
Montana Bankers Association  
1 No. Last Chance Gulch  
Helena, Montana 59601

Dear John;

This will serve as notice that I am 100% behind the Bank Restructure Bill proposed by MBA. It is my understanding that this Bill is to be presented to the legislature this session. I give my whole hearted support to the passage of this Bill.

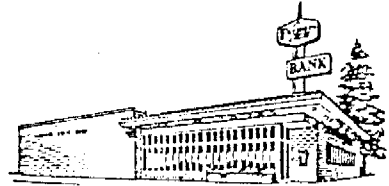
I feel that it is paramount that the legislature pass this Bill as to the survival of all small community Banks

Sincerely,

A handwritten signature in cursive script, appearing to read "H. Richard Hansen".

H. RICHARD HANSEN  
Executive Vice President

HRH:cw



TELEPHONE 967-3612

WORDEN, MONTANA 59088

JOHN D. LAWRENCE, JR.

H. RICHARD HANSEN

January 12, 1989

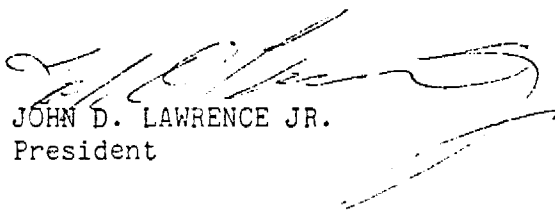
John T. Cadby  
Executive Vice President  
Montana Bankers Association  
1 No. Last Chance Gulch  
Helena, Montana 59601

Dear John;

This will serve as notice that I am 100% behind the Bank Restructure Bill proposed by MBA. It is my understanding that this Bill is to be presented to the legislature this session. I give my whole hearted support to the passage of this Bill.

I feel that it is paramount that the legislature pass this Bill as to the survival of all small community Banks.

Sincerely,

  
JOHN D. LAWRENCE JR.  
President

JDL:cw



OF BOZEMAN • 2800 West Main Street • P.O. Box 578 • Bozeman, Montana 59715 • (406) 586-4555

January 13, 1989

Business Administration  
State Capital Building  
Helena, MT 59601

Dear Gentlemen:

After years of research and a lot of hard work, we would like to commend you and voice our approval of the Montana Branch Banking Legislation.

Very truly yours,

R. D. Aanenson  
Vice President & Cashier

RDA:nls

# THE FIRST NATIONAL BANK

IN HYSHAM

HYSHAM, MONTANA 59038

January 13, 1989

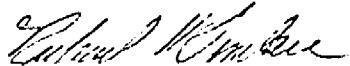
John T. Cadby  
Executive Vice President  
Montana Bankers Association  
1 No. Last Chance Gulch  
Helena, Montana 59601

Dear John:

This will serve as notice that I am 100% behind the Bank Restructure Bill proposed by MBA. It is my understanding that this Bill is to be presented to the legislature this session. I give my wholehearted support to the passage of this Bill.

I feel that it is paramount that the legislature pass this bill as to the survival of all small community banks.

Sincerely,



Richard K. Sinclair  
Ex. Vice President

bw

# Montana Bancsystem, Inc.

2721 Second Avenue North  
Billings, Montana 59101

Telephone  
(406) 248-3633  
Fax. #  
(406) 245-9552

January 13, 1989

Mr. John Cadby  
Executive Vice President  
Montana Bankers Association  
1 No. Last Chance Gulch  
Helena, MT 59601

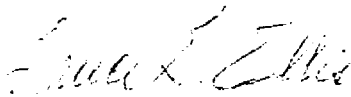
Dear John:

My schedule will not permit me to attend the hearing to be held on January 18, 1989 on the MBA backed Bank Restructure Bill. I very much regret that that is the case as Montana Bancsystem, Inc. strongly supports the passage of this particular piece of legislation.

It is our view that this carefully drafted legislation is the only proposal that will likely come before the Legislature this session that will give the state the capability to maintain full service banking in smaller and more remote communities of Montana. In addition, it permits the modernization of our larger banks to more effectively compete in a deregulated marketplace. Its support from all segments of the banking industry in this state speaks to its need and value.

Best wishes during the course of the hearing and in the progress of the bill before the House.

Sincerely,



Bruce B. Ellis  
Chairman & CEO

BBE/kjb



Box 379  
Forsyth, Montana 59327  
406 356-2112

January 13, 1989

John Cadby, Executive Vice President  
Montana Bankers Association  
1 North Last Chance Gulch  
Helena, Montana 59601

Dear John:

This is to advise that we do support the Montana Bankers Association Bank  
Restructure Act.

Sincerely,

A handwritten signature in cursive script, appearing to read "Albert A. Martens".

Albert A. Martens  
President

hnb



# 4

MONTANA BANKERS ASSOCIATION  
FIVE POINT BANK RESTRUCTURE BILL

Approved by secret ballot 97 to 59, 1 abstaining bank or a 62% majority of MBA members and a majority of all banks in Montana.

The Bill allows:

1. All multi-banks (2 or more) to merge and consolidate.
2. A branch in any town without a bank (restricted to banks' county and contiguous counties).
3. Buying a failed bank and making it a branch.
4. Banks to have one detached drive-up as far as 3000 feet beyond city limits.
5. Placement of an Automated Teller (cash) Machine (ATM) anywhere in county and contiguous counties.

Does not allow:

1. Interstate banking (an out of state bank cannot buy a bank(s) in Montana.)
2. City-wide, county-wide or state-wide branching.
3. Branches in any town which has a bank.
4. Out-of-state bank holding companies to purchase banks (except failed banks) and make them branches. In-state holding companies could do this.

Taxes:

The 6-3/4% state corporation income tax on banks, (80%) would be distributed to branch counties the same as has been done for the 35 savings and loans branches and the one (1) bank branch for the past 10 years.

EXHIBIT 4  
DATE 11/18/89  
HB 151



# ANDERSON ZURMUEHLEN & CO., P.C.

Certified Public Accountants

Power Block Building • Second Floor

6th & Last Chance Gulch • P.O. Box 1147, Helena, MT 59624 • (406) 442-3540

January 16, 1989

EXHIBIT 5  
DATE 1/18/89  
HB 151

MEMO TO: Montana Bankers Association

FROM: Gary B. Carlson, CPA

RE: Montana Independent Bankers Report  
Dated March 11, 1987 On Senate Bill 198

## INTRODUCTION

In March of 1987, the Montana Independent Bankers (MIB) submitted a report (Attachment A) to the Montana Legislature asserting that a bank merger and consolidation bill (SB198) would cause Butte-Silver Bow to lose income tax revenue from local banks. The MIB report was inaccurate and misleading for a variety of reasons that will be explained in this memorandum. In fact, Butte's tax revenues from banks declined more than 40% during the period 1985 to 1987, but not for the reasons asserted in the 1987 report. Indeed, SB198 did not pass the 1987 Legislature, so it certainly was not because of merger and consolidation that Butte-Silver Bow lost tax revenues. The real reason is that bank earnings subject to tax are frequently variable from year to year. The omissions and misstatements of the MIB report are presented below.

### 1. THE MIB REPORT WAS MISLEADING ON THE OPERATION OF THE BANK MERGER BILL

As a general observation, the report is misleading as to the immediate impacts of SB198. It is my understanding the first opportunity for a bank to operate under this defeated legislation would have been January 1, 1988. The MIB report throughout indicated that 1986 tax revenues collected from the financial institutions would be affected. This is not an accurate interpretation. Indeed, the conclusions of the report on the last page are misleading. SB198 would not have impacted the Corporation License Tax revenues in 1986 or 1987 if it had passed.

### 2. THE MIB REPORT WAS MISLEADING ON THE TAX IMPACTS OF BANK MERGER

Additionally, the report speculates that the passage of SB198 would result in the loss of significant portions of tax revenue at the Butte-Silver Bow level. This conclusion appears only to address the possibility that a merger would always result in lowering the overall income of a merged group--when in fact speculation could also result in the argument of increased tax revenue because the group income resulting in a favorable impact to the tax revenue allocated to Butte-Silver Bow.

3. THE MIB REPORT FAILS TO REVEAL THE TAX IMPACTS OF MERGED FINANCIAL INSTITUTIONS IN BUTTE

There are two financial institutions (possibly three depending on Prudential Federal Savings) which currently pay Corporation License Taxes to Butte-Silver Bow based on the entity taxes allocated by deposits - Norwest Bank and American Federal Savings. Within either of these two entities, Butte-Silver Bow could have received increased or decreased allocated tax revenue.

4. THE MIB REPORT FAILS TO USE PROPER TAX DATA

The report refers to the Sheshunoff reports as providing substantiating information as to the potential impacts of merger, resulting in an overall system tax loss. An important point is that the Sheshunoff reports are submitted based on the financial institutions book income. Often times there are substantial differences between book and taxable income. The report did not disclose that this variation could be possible.

5. THE MIB REPORT FAILS TO RECOGNIZE THE UNPREDICTABILITY OF BANK TAXES

The collection of Corporation License Tax revenues is somewhat unpredictable since it is measured by taxable income. Butte-Silver Bow Tax revenues are subject to the operating success of each of the financial institutions for determination of taxable income, resulting in the Corporation License Tax collected. Revenues collected in 1986 and 1987 are lower than 1985. Based on information available to me, 1985 is the largest revenue year for Butte-Silver Bow in the five (5) year period 1983-1987.

6. THE MIB REPORT IS MISLEADING BECAUSE IT FAILED TO DISCUSS THE TAX IMPACTS OF NET OPERATING LOSSES

Additionally, the MIB report did not address or disclose that all net operating loss (NOL) carryforwards existing at a point of merger are immediately lost. Therefore, future tax year incomes could not be offset by any existing carryforward losses. SB198 would not have changed Montana statutes regarding banks with NOL's.

7. THE ACTUAL TAX REVENUES FOR BUTTE-SILVER BOW ARE DIFFERENT THAN PREDICTED

The 1987 MIB report projected that merger would reduce local tax revenues. It implied that without merger, tax revenues would continue as they had during the period 1983-1985. In fact, without merger, revenues

decreased from \$349,912 in 1985 to \$200,098 in 1987.

SCHEDULE OF BUTTE-SILVER BOW SELECTED CORPORATION LICENSE TAX REVENUE

|              | BANK A    | BANK B   | BANK C    | BANK D    | TOTAL     |
|--------------|-----------|----------|-----------|-----------|-----------|
| 1983*        | \$ 21,925 | \$ 8,928 | \$ 49,372 | \$ 21,152 | \$101,377 |
| 1984*        | 100,150   | 2,533    | 64,650    | 51,234    | 228,567   |
| 1985*        | 235,229   | 2,391    | 66,743    | 45,549    | 349,912   |
| 1986@        | 146,738   | 40       | 43,398    | 32,487    | 222,663   |
| 1987@        | 89,324    | 40       | 62,211    | 48,523    | 200,098   |
| 1986 Refund@ |           | (13,732) |           |           | (13,732)  |

\* MIB Report

@ MBA Information From Banks

Additionally, Bank B has a \$252,000 net operating loss carryforward which will offset future taxable earnings, thereby eliminating \$13,600 of corporate license tax payments to Butte-Silver Bow.

The above demonstrates conclusively that bank incomes fluctuate. Therefore, it appears that one cannot predict an absolute upward, stable or downward pattern for the taxable income of the Butte banks.

The above schedule of Corporation License Tax revenue illustrates the cyclical nature of the revenue collection. The information is shown for the four system banks located in Butte-Silver Bow. The four banks in the period 1983-1985 paid between 97% and 99% of the Corporation License Taxes paid to Butte-Silver Bow. The information for the years 1983-1985 is from the MIB report. The information for 1986 and 1987 is computed from information provided by the bank systems to the MBA. It is possible the amounts computed will reflect small differences when compared to the Butte-Silver Bow treasurer reports. The possible differences could arise due to timing differences in the county fiscal year reporting of collections compared to the banks filing Corporation License Taxes on a calendar year end; which depending upon the return filing date, extensions to file, payment of tax estimates, subsequent amended returns, and claims for refunds due to net operating losses; could all result in a timing difference.

#### SUMMARY

Butte-Silver Bow Corporation License Tax revenues did in fact go down from the 1985 amounts as the MIB report indicated. However, SB198 did not impact the revenues, because it was not enacted; the operations and profitability of the banks resulted in the decreased revenue.

The MIB report indicated the passage of SB198 by the 1987 Legislature would have resulted in Butte-Silver Bow receiving no Corporation License Tax revenue from Bank C (above). This statement was incorrect--1986 and 1987 revenue collections would not have been impacted one way or another by SB198 which was introduced with an effective date of January 1, 1988. Additionally, it is unknown whether or not any of the systems would have completed a merger at that time (1/1/88).

#### CONCLUSION

I have reviewed MBA's one page legislative fact sheet on tax implications of merger (Attachment B). It is my professional judgement that MBA's discussion of tax consequences as a result of merger presents an accurate picture of what local governments might expect if a bank merger bill is enacted. At the very least, MBA's analysis is more valid than the numerous erroneous statements offered by MIB to the Montana Legislature in 1987.

The fact that merged banks must forfeit any NOL carryforwards existing at time of merger suggests that merger will not be used by banks as a tool to reduce their tax payments to local governments.

Perhaps the most conclusive statement I can make is that the future tax revenues from banks will depend more on the health of local economy's than on bank merger legislation. Bank merger legislation may help stabilize bank tax revenues in Montana, but only time will tell.

A

MONTANA INDEPENDENT BANKERS

REPORT ON SENATE BILL 198

MARCH 11, 1987

NEWLAND, HORN, CRIPPEN & PECK, P.C.

Certified Public Accountants

212 Missouri Ave.

Deer Lodge, Montana 59722

(406) 846-3733

2900 Lexington

P.O. Box 3006

Butte, Montana 59702

(406) 782-1253

16 North Montana

Dillon, Montana 59725

(406) 683-6125

William B. Horn  
Robert L. Crippen  
Dennis W. Peck

Ronald W. Wagner  
Ronald W. Hanni  
John F. Burns  
Richard L. Tamblyn

March 11, 1987

Montana Independent Bankers

2030 11th Ave, Suite 22

Helena, Montana 59601

Dear Sirs:

This report is the result of our study of Senate Bill 198 as it relates to potential lost corporation tax revenues for Butte-Silver Bow and the School Districts within Butte-Silver Bow.

In accordance with Sections 15-21-701 and 702, M.C.A., the Department of Revenue must transmit 80% of the corporation license tax revenue received from Banks and Savings & Loans to the county in which the business is located. For the years 1985, 1984 and 1983, Butte-Silver Bow has received \$358,453, \$219,730 and \$102,478 respectively, from the Department of Revenue's compliance with these aforementioned statutes. These amounts were obtained from the Butte-Silver Bow Treasurer. The 1986 information is not available, since the corporation license tax returns for 1986 have not been filed. If Senate Bill 198 would pass and become law, Butte-Silver Bow would most certainly lose a major portion of this revenue. A loss of this nature would be devastating to our local government and school systems. Of the total received by Butte-Silver Bow, \$232,990, \$142,820, \$66,600, has gone to the School

The Banks and Savings & Loans in Butte-Silver Bow are:

- (1) Norwest Bank;
- (2) First-Bank-Butte;
- (3) First Citizens Bank;
- (4) Miners Bank;
- (5) Montana Bank;
- (6) Prudential Federal Savings and Loan; and
- (7) American Federal Savings & Loan.

Based on information received from the Butte-Silver Bow Treasurer, corporation license tax revenue has been received from taxes paid by the following banks and savings and loans as listed below:

|                            | <u>1985</u>         | <u>1984</u>         | <u>1983</u>         |
|----------------------------|---------------------|---------------------|---------------------|
| First Citizens Bank        | \$ 24.40            | \$ 24.40            | \$ 40.00            |
| American Federal Savings   | 8,516.91            | 1,096.84            | 1,018.08            |
| First Bank - Butte         | 235,228.80          | 100,149.58          | 21,924.98           |
| Miners Bank                | 2,391.20            | 2,532.80            | 8,928.00            |
| Norwest Bank               | 66,742.69           | 64,649.73           | 49,372.39           |
| Montana Bank               | 45,548.80           | 51,234.00           | 21,152.00           |
| Prudential Federal Savings | <u>0.00</u>         | <u>42.40</u>        | <u>42.40</u>        |
|                            | <u>\$358,452.80</u> | <u>\$219,729.75</u> | <u>\$102,477.85</u> |

If Senate Bill 198 is passed, Butte-Silver Bow would lose a significant portion of this much needed revenue. A discussion of the losses follows:

Norwest has five banks in Montana in the 100 to 499 million dollar asset size. These banks are (1) Norwest Bank of Kalispell; (2) Norwest Bank of Helena; (3) Norwest Bank of Anaconda, Butte; (4) Norwest Bank of Great Falls; and (5) Norwest Bank of Billings. Sheshunoff publishes figures of income or (loss) and has accumu-



lated this information from reports released by the Federal Reserve Bank Board.

Sheshunoff's September 30, 1986 report, which would be the banks earnings or (losses) through the third quarter, showed the following income and (loss) for Norwest Banks:

|                                   |               |
|-----------------------------------|---------------|
| 1. Norwest Bank - Billings        | (\$4,535,000) |
| 2. Norwest Bank - Great Falls     | (\$ 886,000)  |
| 3. Norwest Bank - Anaconda, Butte | \$ 859,000    |
| 4. Norwest Bank - Helena          | \$ 671,000    |
| 5. Norwest Bank - Kalispell       | \$ 802,000    |

It is quite evident that if Senate Bill 198 passes that the ~~consolidated tax~~ <sup>Summary Corporation</sup> will incur a loss. ~~returns will be filled in Billings.~~ If that occurs no tax will be paid by Norwest because the huge losses in Billings will be offset against the profits in Anaconda, Butte, Helena and Kalispell. Therefore, based on this data and the amount of state corporation taxes paid to Butte-Silver Bow for Norwest, which was \$66,743 for the 1985 tax year would be entirely lost. This is further substantiated by the fact that year-to-date profits of Norwest Bank of Anaconda, Butte, through September 30, 1986 are very comparable to 1985 income figures.

First Bank has six banks in Montana in the 100 to 499 million dollar assets size. These banks are (1) First Bank Western of Missoula; (2) First National Bank of Great Falls; (3) First National Bank of Bozeman; (4) First National Bank of Helena; (5) First Bank-Butte; and (6) First Bank of Billings. Sheshunoff's September 30, 1986 report showed the following income and (loss) figures:

|                                       |               |
|---------------------------------------|---------------|
| 1. First Bank Western-Missoula        | \$1,448,000   |
| 2. First National Bank of Great Falls | \$ 788,000    |
| 3. First National Bank of Bozeman     | ( \$ 274,000) |
| 4. First National Bank of Helena      | \$ 945,000    |
| 5. First Bank-Butte                   | \$1,061,000   |
| 6. First Bank of Billings             | (\$4,680,000) |

Surviving Corp

As with the Norwest Banks, it is quite obvious that a consolidated return will be filed in Billings for the First Bank System. If this occurs no tax will be paid by the First Bank System since the losses in Billings will offset any profits in Great Falls, Helena, Butte and Missoula. When comparisons are made between the 1985 net income figures and the first nine months of 1986 for First Bank-Butte, a reduction is evident. Sheshunoff reported net income of \$2,312,000 for 1985 and \$1,061,000 for the first nine months of 1986. For tax year 1985, Butte-Silver Bow received \$235,230 from the First Bank System. Based on these reduced income figures, Butte-Silver Bow will receive approximately \$143,900 for the 1986 tax year if Senate Bill #198 is defeated. This is calculated by annualizing the \$1,061,000 and applying that figure to the prior years data. If Senate Bill 198 passes, Butte-Silver Bow would receive nothing.

In summary, if Senate Bill 198 passes, Butte-Silver Bow would lose an estimated \$210,650 per year, based on 1986 data from lost revenue from Norwest and First Bank Systems banks. As stated earlier, our local government and School Systems cannot suffer this loss.

Very truly yours,



Richard L. Tamblyn, C.P.A.



# ANDERSON ZURMUEHLEN & CO., P.C.

Certified Public Accountants

Power Block Building • Second Floor

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January 17, 1989

EXHIBIT 5  
DATE 1/18/89  
HB 151

MEMO TO: Montana Bankers Association

FROM: Gary B. Carlson

RE: Montana Independent Bankers (MIB) Letter  
Dated January 13, 1989

You have asked me to respond to the latest MIB letter (copy attached) dealing with the tax impacts of merger. As was the case in 1987, MIB is misrepresenting the local tax consequences of bank structure legislation. Let me provide specifics.

1. MIB'S STATEMENTS ABOUT NORWEST BANK SYSTEM ARE INACCURATE

MIB erroneously suggests that merger would have reduced Norwest 1987 tax payments from \$348,000 to \$156,000 statewide. The actual taxes paid to the state and localities is quite different from MIB's figures. Cascade and Yellowstone counties would not have lost any tax revenue contrary to MIB's assumption. The reason quite simply is that Norwest's banks in Cascade and Yellowstone counties lost money in 1987. The merger bill would not effect these 1987 facts following the MIB hypothetical merger.

2. MIB'S ANALYSIS IGNORES THE ROLE THAT NET OPERATING LOSSES WILL PLAY IN BANK'S DECISION TO MERGE

MIB erroneously assumes that all banks will merge. Actually, factors other than tax issues will most likely impact each systems decision. If individual banks within the system have net operating loss (NOL) carry-forwards, a system may decide to NOT MERGE. The reason, quite simply, is that NOL's are forfeited upon merger.

3. ONCE AGAIN, MIB FAILS TO USE PROPER TAX DATA

MIB uses published bank condition reports in their assumption process. The published reports are not on an income tax basis of reporting, but rather on a book basis, which many times vary greatly. The MIB letter does not disclose this possible variation.

4. MIB IGNORES THE IMPACTS OF PROFITS ON TAX REVENUES

NO ONE can say with any accuracy that 1987 is the correct base year to use for projecting the impact of merger, as suggested by the MIB letter. The amount of corporate license tax paid is a function of profitability. 1987 is a year which bank profits within Montana appear to have significantly declined - a major economic issue for the state. An alternative year to substitute for MIB's theoretical assumption report could be 1984 - a year of about four times the amount of taxable income for system banks above 1987, if the request to assume hypothetical merger took place historically has any merit.

SUMMARY

MIB continually portrays a pessimistic attitude about loss of tax revenue. The future could be optimistic with the merger bill providing stability and helping achieve enhanced profitability (therefore more tax revenues). Only time will tell.



# Montana Independent Bankers

2030 11th Ave., Suite 22  
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(406) 442 3811

## OFFICERS

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John Ahlers  
Security Bank of Bozeman  
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First Bank  
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First Bank NA  
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First West  
Box 1317  
Helena, MT 59107

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Bank  
Box 1367  
Helena, MT 59937

First Bank of Malta

38

First  
National Bank  
Box 19  
Helena, MT 59201

January 13, 1989

House Committee on Business  
& Economic Development  
Robert Pavlovich, Chairman  
Montana Legislature/State Capitol  
Helena, MT 59620

Dear Mr. Chairman and Committee Members:

We feel that the hearing you will give the bank-merger bill next Wednesday, January 18, may not develop enough information for the committee on how many tax dollars the bill will cost local governments and give to the large bank holding companies. The fiscal note on the bill may not be printed by that time, and even if it is, a fiscal note will show the loss of state tax revenue but will not show the effects of bank merger in particular counties.

One of our members has estimated, working from published bank condition reports, that the Norwest system would have reduced its overall state corporation tax on 1987 operations from \$348,000 to \$156,000 if they had merged into a single corporation that year. While a couple of counties gained a little revenue most of them lost a lot under this estimate. Cascade County, Great Falls, and their school districts would have lost \$94,000 of tax revenue from this bank alone; Billings-Yellowstone would have lost \$40,000, and the local governments in Silver Bow and Deer Lodge Counties would have been out nearly \$50,000. To add the effects of merging the First Banks, Banks of Montana, etc. to this effect would probably make it considerably worse.

We ask the Committee to direct the Department of Revenue to provide the actual tax reductions for each of the big bank systems for 1987, assuming each had filed a single consolidated tax return. Without this information the bank merger bill's harmful effects on Montana cannot be fully assessed.

Sincerely,

*Robert Pavlovich*

*Kevin J. Allen*

*John Ahlers*

*John Ahlers*

HOUSE BUSINESS & INDUSTRY COMMITTEE  
HELENA, MONTANA

16  
JANUARY 18, 1989

EXHIBIT 6  
DATE 1/18/89  
HB 151

MR. CHAIRMAN & MEMBERS OF THE COMMITTEE:

MY NAME IS LYNN GROBEL. I AM THE 1988-1989 PRESIDENT OF THE MONTANA BANKERS ASSOCIATION. I AM ALSO PRESIDENT AND 20% OWNER OF THE FIRST NATIONAL BANK OF GLASGOW AND DIRECTOR AND 30% OWNER OF THE FIRST NATIONAL BANK OF HINSDALE. I AM AN INDEPENDENT BANKER AND HAVE BEEN FOR 30 YEARS, MOST OF THAT TIME AS PRESIDENT OF THE GLASGOW BANK.

I AM HERE TO SPEAK IN FAVOR OF HOUSE BILL 151, A BANK RESTRUCTURE ACT. THROUGH MAILINGS TO YOU WE HAVE OUTLINED THAT THE BILL RECEIVED COMPLETE ACCEPTANCE BY 62% OF THE 157 MEMBERS OF THE MONTANA BANKERS ASSOCIATION. EARLIER THIS YEAR THERE WERE ONLY 12 BANKS IN MONTANA THAT DID NOT BELONG TO MBA. FOR MANY LEGISLATIVE SESSIONS THE MBA HAS NOT TAKEN A POSITION ON THIS SUBJECT. THE MBA BOARD VOTED TO PRESENT THIS BILL AND TAKE A POSITION BECAUSE THEY FELT THERE IS A NEED TO MODERNIZE BANKING STRUCTURE IN MONTANA. THERE IS ONLY ONE OTHER STATE IN THE UNION BESIDES MONTANA THAT IS NOT NOW ABLE TO BRANCH/MERGE/CONSOLIDATE SUCH AS IS PERMITTED IN THIS BILL. OUR PRINCIPAL IN-STATE COMPETITORS, THE S & L'S AND CREDIT UNIONS, HAVE HAD THESE POWERS FOR YEARS. WE FELT THAT NOW IS THE TIME TO LEVEL THE PLAYING FIELD.

EVEN MORE IMPORTANT IS THE NEED TO TAKE ADVANTAGE OF THE ECONOMIES AND EFFICIENCIES MADE AVAILABLE IN A BRANCH BANKING SOCIETY.

THERE DOES NOT SEEM TO BE CONTROVERSY OR OPPOSITION TO SECTIONS OF THE BILL HAVING TO DO WITH AQUISITION OF FAILED BANKS AND THE RESTRICTIONS ON PLACEMENT OF DETACHED TELLER FACILITIES AND ATM'S (AUTOMATIC TELLER MACHINES), SO I WILL NOT DISCUSS THOSE SECTIONS.

THE IMPORTANT SECTION AND THE REAL HEART OF THE BILL IS THE MERGER/CONSOLIDATION SECTION AND BRANCHING. WHY DO NEARLY 2/3RDS OF THE <sup>member</sup> BANKS IN MONTANA FEEL THESE CHANGES ARE NEEDED? BASICALLY, IT WILL ALLOW BANKS TO PROVIDE FULL SERVICE BANKING TO POSSIBLY MORE COMMUNITIES IN MONTANA AT A LOWER COST TO THE BANK AND AT A LOWER COST TO THE CONSUMER. HOW? SEVERAL WEEKS AGO WE MAILED EACH OF YOU A SUMMARY OF THE BILL AND CERTAIN DEFINITIONS HAVING TO DO WITH UNIT BANK, BRANCHES, MERGER/CONSOLIDATIONS, AND I HOPE YOU HAVE IT WITH YOU AND HAVE HAD TIME TO READ IT OVER.

PRESENTLY UNIT BANKS SUCH AS WE NOW HAVE ALL HAVE THEIR OWN CAPITAL ACCOUNTS, LEGAL LOANING LIMITS, THEIR OWN BOARD OF DIRECTORS. EACH MUST DO ALL THEIR OWN REPORTING TO THE COMPTROLLER OF THE CURRENCY, THE FDIC, THE FEDERAL RESERVE BANKS, THE STATE BANKING ASSOCIATION AND THIS REPORTING IS BECOMING VERY, VERY BURDENSOME. MARTHA SEGER, A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, IS INVESTIGATING THIS BECAUSE SHE BELIEVES THE BURDEN IS SO MUCH THAT IT MAY MAKE IT DIFFICULT FOR SMALLER BANKS TO SURVIVE. WE HAVE HAD SIMILAR COMMENTS FROM SOME BANKERS IN MONTANA. EACH UNIT BANK MUST DO ITS OWN INVESTING OF EXCESS FUNDS AND MAINTAIN ITS OWN LIQUIDITY POSITION DAILY. UNDER MERGER/CONSOLIDATION I WOULD LIKE TO GIVE SEVERAL EXAMPLES: THE BANK AT POPLAR COULD MERGE WITH THE BANK AT SCOBEEY BECAUSE IT IS UNDER THE SAME OWNERSHIP. SCOBEEY COULD BE THE BRANCH, POPLAR THE MAIN OFFICE. THE BURDEN MENTIONED PREVIOUSLY COULD ALL BE DONE BY THE POPLAR BANK, THUS GIVING THE SCOBEEY BANK PERSONNEL MORE TIME TO SPEND ON CUSTOMER NEEDS. THE BANK SYSTEM OF MONTANA BANKS (12 or 13) COULD MERGE. THEY COULD NAME THE GREAT FALLS BANK AS THEIR MAIN OFFICE AND OUTLYING BANKS IN BIG SANDY, HAVRE, CHESTER, RUDYARD AND SO FORTH AS THE BRANCHES. THE BRANCHES WOULD NOT CHANGE IN APPEARANCE OR SERVICES OFFERED. SUBSTANTIAL SAVINGS COULD BE AFFECTED BY PLACING <sup>86-90</sup>~~89~~% OF THE REGULATORY BURDEN WITH THE MAIN OFFICE, THE DAILY LIQUIDITY NEEDS, INVESTMENT OF EXCESS FUNDS, MARKETING, PURCHASING, BOOKKEEPING, AND OTHER THINGS COULD BE DONE AT THE MAIN OFFICE PERMITTING BRANCH OFFICERS AND EMPLOYEES TO SPEND MORE TIME ON THE NEEDS OF THE CONSUMER.

THE LEGAL LOANING LIMIT OF EACH UNIT WOULD BE SUBSTANTIALLY INCREASED AS EACH BRANCH WOULD ENJOY THE LIMIT OF THE ENTIRE ORGANIZATION. THE BRANCH WOULD NOT HAVE CONCERNS TO DO WITH ADEQUATE CAPITALIZATION. THE REGULATORS SUCH AS MR. FLANDER'S OFFICE SHOULD LOOK WITH FAVOR ON THIS TYPE OF CHANGE AS THEIR OFFICE WOULD BE LOOKING AT THE EXAMINATION OF THE ENTIRE SYSTEM INSTEAD OF AN EXAMINATION OF INDIVIDUAL BANKS, SOME OF WHICH MAY BE UNDERCAPITALIZED, SOME MAY HAVE ASSET PROBLEMS AND SOME, OF COURSE, COULD BE STRONG.

THE OPPOSITION MAY TELL YOU THAT A BRANCH LOSES LOCAL TOUCH WITH A COMMUNITY. PRIOR TO GOING TO WORK IN GLASGOW I WAS A NATIONAL BANK EXAMINER FOR EIGHT YEARS WORKING IN THE NINTH DISTRICT. I HAD THE PRIVILEGE OF EXAMINING BRANCHES IN SOUTH DAKOTA AND SOME BRANCHES IN MINNEAPOLIS AND BELIEVE ME, THEY WERE EFFICIENT OPERATIONS THEN, EVEN 30 YEARS AGO BEFORE THE COMPUTER AGE. THE OFFICERS OF THE BRANCH IN LEAD, DEADWOOD AND SPEARFISH, SOUTH DAKOTA AND OTHER TOWNS WERE GENERALLY LONGTIME RESIDENTS OF THEIR COMMUNITIES BELONGING TO LIONS, KIWANIS, CITY COUNCIL AND SO FORTH.

THE OPPONENTS MAY SAY THAT BRANCHES DO NOT HAVE A BOARD OF DIRECTORS. THIS IS NOT NECESSARILY TRUE. IT DEPENDS ON THE SYSTEM. IN SOUTH DAKOTA EACH BRANCH HAD AN ADVISORY BOARD OF DIRECTORS MADE UP OF SUCCESSFUL AREA INDIVIDUALS TO PROVIDE LOCAL INPUT TO THE BRANCH. IN CONTRAST, A GROUP OF FOUR BANKS IN SOUTH CENTRAL MONTANA, BANKS VIGOROUSLY OPPOSING THIS BILL, HAVE AS DIRECTORS OF THEIR BANKS ONLY MEMBERS OF THE FAMILY THAT OWNS THOSE BANKS. IS THAT PROVIDING LOCAL INPUT TO THE BANK? I SAY NO.

I HAVE NEVER BEEN AGAINST LIMITED BRANCH BANKING IN MONTANA BECAUSE I HAVE SEEN IT WORK TO THE BENEFIT OF THE BANK AND THE CONSUMER. ON MANY OCCASIONS I HAVE BEEN ASKED BY THOSE OPPOSING CHANGE TO ASK MY LEGISLATOR TO OPPOSE ENABLING LEGISLATION. I WOULD NOT BECAUSE I DO NOT FEAR BRANCH BANKING AS I HAVE SEEN IT WORK. I KNOW WE MUST HAVE IT AND IT WILL BE GOOD FOR MONTANA. ONE VERY RABID ANTI-CHANGE BANKER SOME YEARS AGO TOLD ME IF I DIDN'T TALK TO MY LEGISLATOR THE BILL COULD PASS AND I WOULD "KILL THE GOOSE THAT LAID THE GOLDEN EGG." "KILL THE GOOSE THAT LAID THE GOLDEN EGG." WAS THAT BANKER THINKING ABOUT THE CONSUMER OR HIS CUSTOMER, OR MORE POSSIBLY ONLY HIS PERSONAL FINANCIAL INTEREST IN BANKING? BANKING HAS BEEN FINANCIALLY REWARDING BUT I ASK AS YOU HEAR THE OPPOSITION, PLEASE KEEP THIS POINT IN MIND. IS THIS BILL GOING TO "KILL THE GOOSE THAT LAID THE GOLDEN EGG" OR BE A BILL THAT IS GOING TO BE GOOD FOR BANKING IN MONTANA AND FOR THE BANKING CONSUMER.

IN CONCLUSION, HOUSE BILL 151 IS GOOD PROGRESSIVE LEGISLATION THAT WILL ALLOW THE BANKING COMMUNITY TO COMPETE ON A MORE EQUAL PLANE WITH OTHER PROVIDERS OF FINANCIAL SERVICES; THE ECONOMIES AND EFFICIENCIES REALIZED WILL BENEFIT THE BANK, ESPECIALLY THE SMALL BANK, AND THE CONSUMER. SOUTH DAKOTA, A STATE OF SIMILAR SIZE THAT HAS HAD BRANCHING FOR OVER 30 YEARS, HAS 130 BANKS AND 150 BRANCHES FOR A TOTAL OF 280 BANKING OUTLETS. MONTANA HAS 169 BANKING OUTLETS AND WILL HAVE FEWER IF OUR SYSTEM IS NOT MODERNIZED AS THIS BILL PROVIDES.

THANK YOU FOR YOUR TIME AND IF YOU HAVE QUESTIONS AT THIS TIME OR AT A LATER TIME, I WOULD BE GLAD TO RESPOND.



Mr. Chairman, Members of the Committee:

My name is John Witte. I am President of the Citizen's State Bank of Scobey, Trader's State Bank of Poplar, and Northeastern Montana Bank Shares, a multi-bank holding company which owns these two banks along with Northeastern Montana Insurance Agency which has insurance agencies in both banks. I have been in banking for almost forty years, all of it spent in Eastern Montana, and without fear of bragging, I can honestly say that I consider myself one of the leading innovative community and agricultural bankers in this Great State. I was also one of the organizers of the Montana Independent Bankers in 1968, served on its board of directors, was President in 1972, and stopped paying dues several years ago because of the Independents' unyielding attitude towards merger and consolidation and the continual fight every two years in this Legislature. In a letter acknowledging my withdrawal, the secretary of the organization wrote, and I quote, "the real loss to the organization will be the loss of the voice of dissent. You had the ability to challenge decisions and offer alternatives and that will be sorely missed. We need more of it; not less."

A lot of water has gone over the dam since we formed the M.I.B. in 1968 for the main purpose of repealing an old piece of legislation which said that "banks in the same county or contiguous counties could merge and maintain separate banking offices." Norwest took advantage of this law with the Anaconda-Butte merger, and the M.I.B. had that legislation repealed in 1969. There have been many times in the past five-six years of drought, when we lost two million dollars in one bank, that I wished that law was still on the books. But we weathered the storm and our banks are strong..

Let's review what has happened in my almost forty years of banking in Montana. I remember when Ed Towe came to Montana in the 50's and bought the First National Bank in Circle, and over the next 15-20 years or more expanded to 12 banks and sold out to the so-called Kuhn chain, a group of Ohio investors. Dick and Charlie Rubie, from their base in Havre, expanded to 14 banks and sold to the Adams chain, a Minneapolis-based group of investors. The Scott chain, a Montana-based holding

company, has expanded to <sup>7</sup>8 banks. The Yellowstone banks have 4, and there are many 2,3,4, bank holding companies. If you are to follow the definition of the Independent Bankers of America that "an independent bank is one that is locally owned and controlled", there aren't too many independents left, but many small multi-bank holding companies, with local Montana ownership, serving their communities.

In my younger years in the banking business, we had none or very minimal competition from the S&L's and the Credit Unions. Today, they, along with the brokerage houses, insurance companies, J.C. Penney, Sears Roebuck, you name it, they're popping up every day, and are draining off more and more of our depositors' dollars that we need to finance the business, industry and agriculture of this Great State. They can go where they want, practically do what they want. It would be interesting to know how much they pay in State income taxes, while the Montana banking industry is tied down by antiquated and archaic laws and paying our fair share of taxes to support this Great State, our communities, and our schools. In Scobey, we have a Federal Credit Union and the common bond is to be a resident of Daniels County. In the past year, the Credit Union expanded in to Medicine Lake in Sheridan County, and the common bond is to be a resident of either county. Credit Unions are the fastest growing financial industry in this State and the Nation. They pay no State or Federal income tax, their overhead is lower than ours, and, as a result, they pay more for deposits and charge less for loans than we do. I'm not afraid of competition, I've been a fighter and a competitor all my life, but I'm getting damn sick and tired of fighting with one hand tied behind my back. Two years ago, the Clarks Fork National Bank of Fromberg was closed and liquidated and the Valley Credit Union in Billings moved in and opened a branch in the old bank building. There was a loss of tax revenue. In the past year, a failing bank in <sup>COLUMBIA</sup> Great Falls was purchased by an S&L and with the shape the S&L's are in, I wonder how much income tax will be generated to the State of Montana from that institution.

I would venture to say very, very little, if any. I could go on and on detailing what I consider horror stories in our industry, but your time is valuable.

I'm not too proud of my industry. For 20 years we have been washing our dirty linen in these legislative halls, worrying about the Minnesota Twins, while you have many more important things to do.

The banking industry has served Montana well, and it can continue to do so but we must move into the 20th century and get away from the horse and buggy philosophy if we are to survive.

We shouldn't even be here today. This legislation was first approved by secret ballot of the M.B.A. Board of Directors, of which First Bank and Norwest are in the minority, and then by the Bankers by a vote of 97 to 59. That is a bigger majority than either George Bush or Stan Stephens received!

We Montanans are proud people. To my knowledge, we are the only State in the Union that still has a caboose on our trains. That law may be 70 or 80 years old, but we can't help it if the other 49 states are wrong. We are one of 5 states left in the Union which still doesn't have a sales tax, but what the hell, we can't help it if all those other states are out of step -- we're proud people. We are one of two states left in the Union which doesn't have some type of branching or merger in our banking industry. But we're proud people. I'm proud to be a Montanan, but I'm not too proud to be at the bottom of the totem pole in this great nation. We have too much negative thinking in this great State. This is good legislation, and I would recommend a unanimous vote of approval for passage of this bill, so that the banking industry can move forward with the rest of Montana and the nation and find our rightful place in this great nation. We are not the type of people who should be at the bottom.

TESTIMONY

January 18, 1989

M. M. OLSSON - Vice President, Ronan State Bank

SUBJECT: BANK RESTRUCTURING BILL

My name is Martin Olsson. I am representing the Ronan State Bank, a \$50 million bank, established in Ronan in the year 1910. The Ronan State Bank is a closely held bank with no corporate affiliation with a larger multi bank system. We are an independent bank.

We favor the Bank Restructuring Bill because in our view, its major features will benefit banks, bank customers and the State of Montana. The major features I refer to are as follows:

1. branching and facilities provisions
2. merger and consolidation provisions

BRANCHING & FACILITIES

Banks will, through the limited branching and expanded facilities provisions of this bill, be given a new tool to compete with non-bank financial services providers, who continue to erode the commercial banks share of the available financial services market. We view these non-bank financial services providers, including the savings and loan industry, credit unions, insurance brokerage houses and retailers such as Sears, to be the real competitive threat to the banking industry. Each of these have the ability to locate branches and/or facilities anywhere in the State. We cannot conceive of a logical reason why commercial banks should not be afforded the same opportunity to compete. Nor can we conceive of a bank customer who would, for any reason, object to the prospect that he or she might be able to conduct his or her banking business at a more convenient location. In short then, we believe that the branching and facilities provisions of this bill will benefit banking. It will benefit bank customers and yes, more convenience for bank customers and investment in brick and mortar may even be a key to improving Montana's business climate.

MERGER AND CONSOLIDATION

The merger and consolidation provisions of the Bank Restructure Bill, allows any multi bank system in Montana, that so elects, to change their structure. There are over 11 such systems (and more to be developed) in the State that could designate one of their banking units to serve as the "Head Office" and allow the remaining units to serve as branches. For some of these multi bank systems, this will represent an opportunity to improve the cost efficiency of their operation. Cost savings could and most likely would be passed on to the consumer. Merger consolidation

again provides banking an opportunity to compete on a more level playing field with those non-bank competitors mentioned earlier, particularly the credit unions and savings and loan associations that have for years been able to merge and consolidate. The competitive advantages that may exist for some under merger and consolidation will benefit banking, the consumer and Montana.

## OPPOSING VIEWS

### 1. Loans in Small Communities

Some argue that through branching, merger and consolidation that management decisions, particularly loan decisions might not be made by the local banker and or loan committee, who understand well, local economic conditions. These people argue that loan decisions will be made at and by "Head Office" personnel who could care less about the community served by the branch.

At one time, this procedure may have been the rule, however, given the extremely competitive banking environment of today, we believe it to be more and more the exception. We believe that bankers can learn by their mistakes and that the banking industry has come to realize that the local bank, local banker and local loan committee must be responsive to the banking needs of the community they serve.

A well underwritten and well managed loan portfolio, is an essential component in assuring the profitability of a community bank. If local decision making is helpful in achieving this objective, (and we believe it is) then local decision making will be the rule and not the exception.

The legislature of the State of Montana cannot legislate competitive full service banking any more than it can legislate a work ethic. Legislators should and must however, allow banks to compete and the passage of the Bank Restructure Bill is essential, now.

### 2. State Income Taxes

With the Bank Restructure Bill the 6.75% state corporation income tax on banks would be collected by the state as has been the case for years. Distribution to branching counties of 80% of this tax would be done on the basis of the ratio of deposits in the branch to the total for the corporation.

Some would argue that under consolidation and merger, because of the fact that some systems may choose to file a consolidated tax return, that certian counties may stand to collect less tax revenue.

We don't argue that in any given year this possibility does exist and agree that in the future, as is the case now, some counties will do better than others, relative to the effect

of state law relating to corporate income tax on commercial banks.

We would point up the fact that under the current, non branching environment, that between the years 1981 and 1988 (through June), a total of 178 banks lost \$97,936,000.00 resulting in an approximate state and local income tax loss in excess of \$6,000,000.00. We ask that you examine carefully the facts as presented in "EXHIBIT A" attached. We are confident that having done so, you will come to realize that the tax question raised by some is not the major issue they would have you make it.

We urge you to support the Bank Restructure Bill which will allow commercial banks to remain competitive, recapture lost market share thus improving profitability levels and enabling state income tax receipts from commercial banks to stabilize or improve.

#### SUMMARY

Recent independent studies have criticized the Montana banking community for resisting change needed to modernize the banking laws in Montana. We feel these criticisms are justified.

Times, technology and competitive factors are requiring rapid changes, the banking industry and Montana banking law must keep pace. Montana is one of the only states in the country which has not modernized its banking laws and we feel that now is the time to do so.

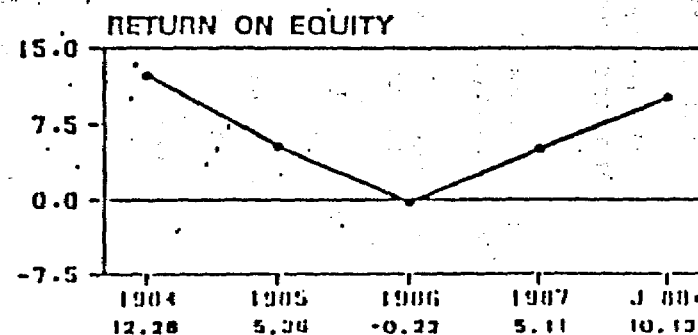
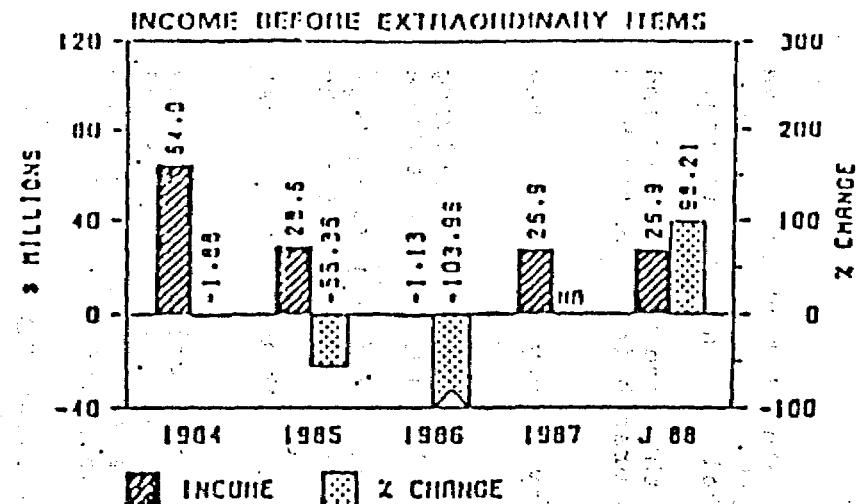
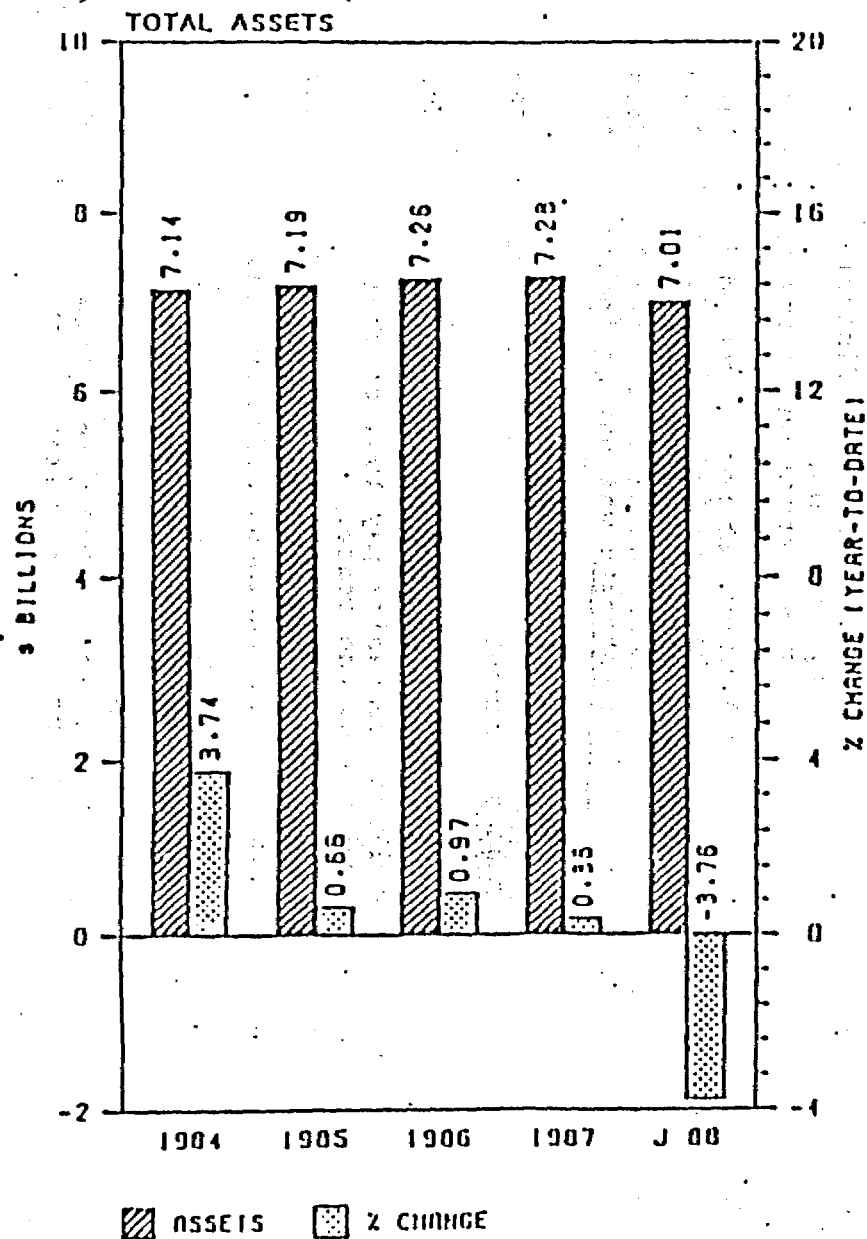
As in years past, the issue of change has become an emotional one once again. A few bankers oppose vigorously this bill as they have opposed any changes for years. We ask that you take the time and make the effort to objectively consider this bill on its merits. The membership of the Montana Bankers Association has done so and a clear majority of 62% have approved the proposal. This fact, in and of itself is a strong, broad based affirmative testimony to the critical need for change.

The Banking Restructure Bill will benefit banks, bank customers and the State of Montana. We strongly encourage your enthusiastic support of this most worthwhile piece of legislation.

EXHIBIT "A"  
MONTANA BANKERS ASSOCIATION  
BANK RESTRUCTURE ACT - 1990  
EFFECTS ON INCOME TAX

1. For 10 years the 11 S&Ls and 35 branches plus 1 bank branch have distributed their state income tax to local government based on a ratio of deposits in the branch to the total for the corporation.
  - a. Any banks who merge would be treated the same way as S&Ls and the Norwest Bank in Anaconda and its branch in Butte has been treated for 10 years.
2. Today the amount of income tax paid to every county is based on the profitability of the local bank(s).
  - a. Local government has all of their eggs in one basket, relying on the profitability of their local bank(s) rather than a system of banks statewide.
  - b. This is like an individual investing all of his life savings in one company rather than a diversified portfolio of stocks and bonds.
  - c. Since deregulation of banking in 1980, bank profits (losses) have become volatile and unpredictable.
3. Counties and cities have to refund income taxes received in previous 3 years for losses. Net operating losses can also be carried forward and deducted from future earnings of said bank for 7 years (estimated losses exhibited on back from Sheshunoff x 6-3/4%).
  - a. If banks merge, all net operating losses carrying forward are forfeited, thus providing more tax revenue.
4. Since 1980, market share has steadily fallen resulting in less tax revenue for local government (exhibit on back).
  - a. Nationally, banks now have only 29% of the financial assets compared to over half thirty years ago.
  - b. Nationally, banks average an 8% return on equity compared to 14% before deregulation.
  - c. Total assets of banks in Montana has not increased in the last five years. Credit unions have doubled their market share in Montana the last five years.
  - d. Billions of dollars have flowed into other financial providers and the state Board of Investments who pay no income tax to local government.
5. Only banks and S&Ls share 80% of the state corporation license (income) tax with local government.
  - a. All other competitors e.g. D.A. Davidson, Sears, Merrill Lynch, Edward D. Jones, Dain Bosworth, insurance agents, realtors, retailers and mortgage companies pay 100% of their state corporation income tax to the state.
  - b. The 109 credit unions and state Board of Investments do not pay any income tax.
  - c. All other corporations doing business in Montana pay 100% state income tax to the state.
  - d. This bill does not affect the current tax structure.

SOLUTION: Relax geographical restrictions on banks so as to operate more efficiently and profitably, and thereby recapture lost market share, make more money and pay more income taxes to state and local government.



| Year        | # of Banks With Losses | Total Millions \$'s lost | Approximate State/Local Income Taxes Refunded/Lost |
|-------------|------------------------|--------------------------|----------------------------------------------------|
| 1981        | 7                      | \$ 647,000               | \$ 43,673                                          |
| 1982        | 5                      | 1,107,000                | 74,723                                             |
| 1983        | 9                      | 1,574,000                | 106,245                                            |
| 1984        | 19                     | 4,392,000                | 296,460                                            |
| 1985        | 33                     | 28,719,000               | 1,938,533                                          |
| 1986        | 52                     | 39,018,000               | 2,633,715                                          |
| 1987        | 36                     | 20,320,000               | 1,371,600                                          |
| 1988 (June) | 17                     | 2,159,000                | 145,733                                            |
| 8-1/2 years | 178                    | \$ 97,936,000            | \$ 6,464,949                                       |



JANUARY 18, 1989

# 9

TESTIMONY BY PAUL D. CARUSO, CHAIRMAN OF FIRST SECURITY BANK OF HELENA BEFORE THE BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE IN OPPOSITION TO HOUSE BILL 151 (BRANCH BANKING AND MERGING)

BRANCH BANKING AND MERGING IN MONTANA IS NOT NECESSARY---NOW OR IN THE FUTURE. MONTANA LEGISLATORS HAVE BEEN CONFRONTED WITH THE BRANCHING AND MERGING QUESTION SINCE 1927, AND HAVE CONTINUED TO MAINTAIN MONTANA AS A UNIT BANKING STATE. CERTAINLY ALL THE VOTES AGAINST BRANCH BANKING THROUGH ALL THE LEGISLATIVE ASSEMBLIES CAN'T BE WRONG.

FIRST: I ASK THE QUESTION.....WHY DO WE NEED TO CHANGE OUR PRESENT BANKING SYSTEM IN MONTANA? CERTAINLY NOT BECAUSE THE INDEPENDENT BANKERS ARE NOT SERVING THEIR COMMUNITIES, THEIR TRADE AREAS, OR THE STATE OF MONTANA AS A WHOLE. THE ONLY REASON FOR THE PROPOSED CHANGE APPEARS TO BE TO CONTROL THE ECONOMY OF MONTANA BY FOREIGN FINANCIAL CORPORATIONS AND HOLDING COMPANIES. A SIMPLE METHOD TO SECURE CONCENTRATION OF:

1. DEVELOPMENT OF MONTANA
2. DEVELOPMENT OF MONTANA BUSINESS
3. DEVELOPMENT OF MONTANA INDUSTRY
4. DEVELOPMENT OF FARMING AND RANCHING

CONCENTRATION OF BANK DEPOSITS WITHIN A STATE IS DIRECTLY RELATED TO THE EXTENT TO WHICH THE STATE PERMITS BRANCH BANKING AND MERGING OF LIABILITIES AND PROFITS AND LOSSES. CONCENTRATION IS GREATEST IN STATES WITH STATEWIDE BRANCHING AND MERGING. IT IS SECOND GREATEST IN STATES THAT PERMIT BRANCHING AND MERGING BUT LIMIT IT TO SOME DEGREE. CONCENTRATION IS LEAST IN STATES THAT SEVERELY RESTRICT BRANCHING AND MERGING OR PROHIBIT IT ALTOGETHER. IN RECENT YEARS, THE NUMBER OF INDEPENDENT BANKS HAS DROPPED SHARPLY IN STATES WHERE BRANCHING AND MERGING IS PERMITTED STATEWIDE OR WITHIN LARGE GEOGRAPHIC AREAS. IN STATES WHERE BRANCHING AND MERGING IS RESTRICTED SEVERELY OR PROHIBITED ENTIRELY, THE NUMBER OF INDEPENDENT BANKS HAS GROWN.

WE IN MONTANA CAN NOT REDESIGN A SYSTEM THAT PROMOTES COMPETITION AND GUARDS AGAINST UNDUE CONCENTRATION. EXPERIENCE HAS SHOWN THAT THE INDEPENDENT BANKING SYSTEM, BUTTRESSED BY THE CORRESPONDENT RELATIONSHIP, IS THE MOST ADVANTAGEOUS TO THE PUBLIC. THE ARGUMENT

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IS SOMETIMES MADE BY EXPANSION-MINDED BANKERS THAT INDEPENDENT BANKING HOBBOLES A STATE ECONOMICALLY. THIS CONTENTION IGNORES THE FACT THAT THREE OF THE FASTEST GROWING STATES IN OUR UNION, ALL MATURED UNDER THE UNIT BANKING SYSTEM. BUT THE ARGUMENT THAT MULTI-OFFICE BANKING SPURS A STATE'S ECONOMIC GROWTH ATTRACTS SOME BELIEVERS, NONETHELESS.

IT JUST IS NOT TRUE THAT CHANGING BANKING STRUCTURE LAWS WILL UNLEASH ECONOMIC FORCES SO THAT A LAGGING STATE CAN SOON MAKE SOME "GREAT LEAP FORWARD." BANKS SERVE AS COLLECTORS OF SAVINGS AND ARE INSTRUMENTAL IN THE MONEY-CREATING PROCESS. THEY HELP DECIDE WHO GETS LOANABLE FUNDS, THEREBY HELPING TO CHANNEL GROWTH INTO CERTAIN INDUSTRIES AND LOCALITIES. THEIR PRESENCE ALONE IS NOT ENOUGH TO BOOST GROWTH. IN SHORT, THE KINSHIP OF STRUCTURE AND GROWTH IS TOO WEAK TO SUPPORT CHANGE IN THE BANKING LAW IN THE BELIEF THAT HIGHER LEVELS OF ECONOMIC GROWTH CAN BE REACHED. EXAMINATION OF THE MOST COMMON INDICATORS OF ECONOMIC PERFORMANCE DOES NOT REVEAL ANY SYSTEMATIC OR READILY DISCERNIBLE RELATIONSHIP BETWEEN A STATE'S STYLE OF BANKING STRUCTURE AND IT'S TEMPO OF ECONOMIC GROWTH.

THE QUESTION WE ARE CONFRONTED WITH TODAY IS NOT WITH THE PROPOSED LEGISLATION THAT IS BEFORE OUR COMMITTEE MEETING THIS MORNING. THE MAIN ISSUE OF CONCERN TO ALL OF US SHOULD BE THE PROBLEMS ON A NATIONAL BASIS. THE PROPOSED CHANGES THAT WILL BE TAKING PLACE WITHIN THE STRUCTURE OF THE FINANCIAL SYSTEM IN OUR COUNTRY WILL BE ONE OF THE FIRST ORDERS OF BUSINESS THAT OUR CONGRESS WILL FACE.

PRESIDENT-ELECT BUSH HAS APPOINTED A TASK FORCE FOR RESTRUCTURING OF THE FINANCIAL INDUSTRY, WHICH WILL INCLUDE BANKS, SAVINGS AND LOANS AND CREDIT UNIONS. THE WHOLE REGULATORY SYSTEM IS GOING TO BE SIMPLIFIED AND REGULATED UNDER THE FDIC, FSLIC, FEDERAL RESERVE SYSTEM AND THE COMPTROLLER OF CURRENCY. THE LEGISLATION THAT WILL BE ACTED UPON BY OUR CONGRESS WILL HAVE A PRIORITY OVER ANY TYPE OF LEGISLATION THAT WOULD BE ACTED UPON BY OUR STATE LEGISLATURE. THEREFORE, IT IS THE RECOMMENDATION OF THE MIB, NOT TO ACT UPON ANY TYPE OF NEW MERGING LAWS OR REGULATIONS FOR OUR BANKS DOING BUSINESS IN MONTANA, AT THIS SESSION OF LEGISLATURE. WHAT WE WOULD BE DOING WILL BE MOOT.

TO SUBSTANTIATE THE ABOVE INFORMATION YOU WILL PLEASE FIND ATTACHED TO MY TESTIMONY, DETAIL OF PRESIDENT ELECT BUSH'S REGULATORY REFORM RECOMMENDATIONS.

CHANGING OF OUR BANKING LAWS IS NOT THE METHOD TO BUILD A MAJESTIC MONTANA.

SECOND: YOU CAN BE A PLAYER IF YOU HAVE A SCORE CARD, CORRECT?

LET'S LOOK AT THE SCORE CARD WITH THE PLAYERS.

WHO IS DOING WHAT FOR THE BETTERMENT OF MONTANA IN THE FINANCIAL INDUSTRY  
AMONG BANKS.....

AS AN EXAMPLE: DURING THE YEAR 1988 THE BANKS IN MONTANA PROCESSED, UNDER THE SBA LOAN GUARANTEE PROGRAM, OVER 30 MILLION TOTAL LOANS, OF THE TOP TEN MOST ACTIVE BANKS PARTICIPATING UNDER THE SBA PROGRAM, EIGHT OF THESE TEN ARE INDEPENDENT BANKS. THE TOP TWO BANKS OUT OF THIS TEN ARE INDEPENDENT BANKS. THE TOP TEN BANKS PROCESSED \$20,617,300. IN TOTAL LOANS, OF THIS, \$14,916,000. WAS PROCESSED BY INDEPENDENT BANKS. \$5,701,100 WAS RPOCESSED BY CORPORATE BANKS. FURTHER, THE TOP TEN PROCESSED 114 TOTAL LOANS, OF THIS 87 WERE BY INDEPENDENT BANKS AND 27 BY CORPORATIONS. THAT IS PART OF THE SCORECARD. IT IS ALSO INTERESTING TO NOTE THAT OF THE TOP TEN BANKS, THE MAJORITY OF THE INDEPENDENT BANKS WERE NOT CONCENTRATED IN THE LARGER CITIES OF MONTANA, BUT GEOGRAPHICALLY LOCATED ACROSS THE STATE. THE CORPORATED BANKS OF THIS GROUP WERE FROM LARGER CITIES.

FURTHER, LET'S TALK ABOUT THE LOANS PROCESSED UNDER THE MONTANA BOARD OF HOUSING PROGRAM. MORTGAGE LOANS PROCESSED BY THE STATE BOARD OF HOUSING TELL THE SAME OR SIMILAR STORY. FROM THIS SCORECARD, IT IS PLAIN TO VERIFY THAT THE INDEPENDENT BANKS WITHIN THE STATE ARE MOST CERTAINLY DOING MORE THAN THEIR FAIR SHARE.

ANOTHER INTERESTING PHILOSOPHY CONCERNING THE MAKE-UP OF THE FIRST BANK SYSTEM AND NORWEST CORPORATION BANKS IN MONTANA. FIRST BANK SYSTEM HAS THIRTEEN BANKS IN MONTANA, ALL NATIONAL BANKS EXCEPT ONE BEING A STATE BANK AND ONE TRUST COMPANY UNDER STATE REGULATION. NORWEST BANKS IN MONTANA ARE ALL UNDER NATIONAL REGULATIONS, CONTAINING EIGHT BANKS. ONE TRUST COMPANY UNDER STATE REGULATION. THE MAJORITY OF INDEPENDENT BANKS IN MONTANA ARE STATE BANKS.

IT APPEARS OUR LARGE OUT-OF-STATE NATIONAL BANKS AND HOLDING COMPANIES WISH TO CONTROL THEIR OWN DESTINY OF DOING BUSINESS IN MONTANA WITH THE LEGISLATION PROPOSED BY MBA.

I HAVE ALSO INCLUDED IN MY TESTIMONY STATISTICAL INFORMATION FOR BANK DATA ON RATIOS OF INSTITUTIONAL COMPARISON IN HELENA FOR YOUR ADDITIONAL INFORMATION AND REVIEW.

MANY OTHER STATISTICS COULD FURTHER DOCUMENT THE POSITION OF INDEPENDENT BANKING IN MONTANA AND OUR ECONOMIC CONTRIBUTION TO BANKING AND SHOW THE WAY BANKING IN THIS COUNTRY COULD BE RACING DOWN THE ROAD TO ULTIMATE CONCENTRATION.

BUT ENOUGH IS ENOUGH. WHAT HAS BEEN PRESENTED ABOVE SHOULD BE SUFFICIENT TO TELL THE STORY. THE FACTS ARE PLAIN. CERTAINLY THE SPEED WITH WHICH THE BANKING AND CREDIT CONTROL STRUCTURE OF OUR COUNTRY IS BEING CENTRALIZED, SHOULD BE A MATTER OF MORE CONCERN. THE SIMPLE QUESTION IS THIS: IS BANKING CONCENTRATION THROUGH BRANCH AND MERGING, OR HOLDING COMPANY SYSTEMS IN THE PUBLIC INTEREST? THE PEOPLE OF COLORADO WERE ASKED THIS QUESTION ON A VOTERS BALLOT FOUR YEARS AGO, AND THEY VOTED NEARLY THREE TO ONE AGAINST BRANCH BANKING.

IN CLOSING, THE ABOVE EXAMPLES SUBSTANTIATE THE STABILITY OF THE INDEPENDENT PLEDGE TO BUILD A MORE MAJESTIC MONTANA, MONTANA CAPITAL FOR MONTANA BUSINESS BY MONTANA LENDERS. THE INDEPENDENT BANKS OF MONTANA CAN NOT VISUALIZE WHY THE LEGISLATURE OF THE STATE OF MONTANA EVEN FIND WHY IT IS NECESSARY TO CONSIDER HB 151 FOR LEGISLATION FOR THE MBA BILL AND NOT GIVE THE INDEPENDENT BANKS OF OUR STATE THE SAME FORGIVENESS THAT THIS LEGISLATION WOULD DOLE OUT TO THE BIG BANKS AND OUT OF STATE HOLDING COMPANIES. IT COULD PUT THE CHURCH OUT OF BUSINESS!

WE REQUEST YOUR VOTE OF: X"DO NOT PASS"

THANK YOU.

## BUSH TASK FORCE RECOMMENDATIONS

### REGULATORY REFORM

IBAA Note: The restructuring proposal does not address the thrift industry. When this report was being prepared the thrift lobby was strongly opposed to being included in any restructuring proposal and successfully kept any mention of the thrift industry out of this document.

#### Overview of Recommendations

The overall objective of the Task Group recommendations is to achieve the best possible balance of three essential goals:

- o safety and soundness,
- o consumer protection, and
- o competition and efficiency.

To help achieve these goals the Task Group proposals seek to strengthen the regulatory system by simplifying it and improving accountability. No agency would be eliminated, but agency responsibilities would be clarified, and the overall process would be streamlined. In some areas particular regulatory functions would be consolidated in a single agency. In others, existing regulatory programs would be modified to reduce unnecessary costs. Major changes in the structure of federal bank regulation would also be implemented to increase efficiency and improve the reliability and flexibility of the system.

Key points of the proposals include:

- The three existing federal bank regulators would be reduced to two by eliminating the FDIC's role in examining, supervising and regulating state non-member banks. A new "Federal Banking Agency" ("FBA") would be created within the Treasury Department, incorporating and upgrading the existing OCC. This agency would regulate all national banks, while the FRB would be responsible for federal regulation of all state-chartered banks.
- The regulation of bank holding companies would be substantially reorganized. At present, the FRB regulates all bank holding companies, even though a different agency usually regulates the subsidiary bank(s) of the holding company. Under the new system in almost all cases the agency that regulates a bank would also supervise its parent holding company. This would make it possible for most banking organizations to have a single federal regulator rather than two.
- The FRB would transfer its authority to establish the permissible activities of bank holding companies to the new FBA, although it would maintain a limited veto right over new

- The FRB would continue to supervise the holding companies of the very largest domestic banks, as well as those with significant international activities and foreign-owned institutions.
- The FDIC would be refocused exclusively on providing deposit insurance and administering the deposit insurance system. All its current responsibilities for environmental, consumer, antitrust and other laws not directly related to the solvency of insured banks would be transferred to other agencies, as would its responsibilities for routine examination, supervision and regulation of state non-member banks. At the same time, the FDIC would assume new authority to review issuance of insurance to all institutions, as well as to examine all troubled institutions and sample non-troubled firms in conjunction with the primary supervisor. The FDIC would also have new authority to take enforcement action against violations of federal law concerning unsafe banking practices in any bank examined by it where the primary regulator failed to take such action upon prior request of the FDIC.
- A new program would transfer current federal supervision of many state-chartered banks and S&Ls (and their holding companies) to the better state regulatory agencies, creating new incentives for states to assume a stronger role in supervision.
- The special regulatory system for thrifts would be maintained, but eligibility would be based on whether an institution is actually competing as a thrift, rather than on its type of charter.
- The FDIC and FSLIC would be required to establish common minimum capital requirements and accounting standards for insurance purposes.
- Antitrust and securities matters would each be handled by a single agency rather than five different agencies at present.
- Some specific regulatory provisions would be simplified to eliminate unnecessary burden. These include existing legislative provisions that encourage wasteful litigation, as well as outdated application requirements in various areas that result in substantial unnecessary paperwork.

Needless to say, the proposals of the Task Group would not guarantee either good management by financial firms, or consistent and effective leadership of the financial regulatory agencies. However, these proposals would strengthen our ability to maintain a safe and sound financial system. At the same time they would also begin to reduce many of the unnecessary costs and burdens of the current system. As a comprehensive package the proposals would represent the most significant overhaul of our federal regulatory apparatus since the 1930s. Their adoption would produce substantial and lasting benefits for both our financial markets and the American public.

**CAPITAL RATIOS:**

|                        | SEPTEMBER 1988 | SEPTEMBER 1985 |
|------------------------|----------------|----------------|
| FIRST SECURITY HELENA  | 8.21           | 9.00           |
| NORWEST HELENA         | 5.18           | 6.64           |
| FIRST BANK HELENA      | 5.82           | 5.67           |
| BANK OF MONTANA HELENA | 9.81           | 11.63          |

**LOAN TO DEPOSIT RATIOS:**

|                       |       |       |
|-----------------------|-------|-------|
| FIRST SECURITY HELENA | 71.68 | 71.90 |
| NORWEST HELENA        | 39.03 | 67.91 |
| FIRST BANK HELENA     | 36.95 | 51.39 |
| BANK OF MONTANA       | 46.48 | 72.50 |

**DEPOSITS:**

|                        |         |         |
|------------------------|---------|---------|
| FIRST SECURITY HELENA  | 25,134  | 22,490  |
| NORWEST HELENA         | 94,994  | 100,164 |
| FIRST BANK HELENA      | 115,013 | 107,084 |
| BANK OF MONTANA HELENA | 15,761  | 13,027  |

NOTE: THE FIRST BANK OF HELENA NUMBERS FOR SEPTEMBER 1988 ARE JUNE 30, 1988 NUMBERS. FIRST BANK DID NOT PUBLISH CALL REPORTS IN MONTANA IN SEPTEMBER, ALL FIRST SYSTEM BANK WERE PUBLISHED IN MINNESOTA, I THINK.

CAPITAL, IF CONSOLIDATION OCCURS THE MINNESOTA BANKS MAY BE ABLE TO OPERATE ON EVEN SMALL CAPITAL RATIOS. I KNOW THIS DISCREPANCY IS MAINLY DUE TO THE REGULATORS EACH OF US IS UNDER, HOWEVER IT COULD CAUSE THE PLAYING FIELD TO BE DISTORTED FURTHER.

LOAN TO DEPOSIT RATIOS, THERE IS A STRONG INDICATION THE MINNESOTA BANKS ARE LESS WILLING TO DO BUSINESS WITHIN THE STATE AND I FEEL THAT CONSOLIDATION WOULD DO NOTHING TO REVERSE THIS TREND. POINT OF INTEREST THE FIRST SECURITY BANK OF HELENA HAS A BETTER PAST-DUE PERCENTAGE AND LESS CLASSIFICATIONS CURRENTLY THEN IT HAD IN 1985. BETTER MANAGEMENT, I DON'T THINK SO, THERE ARE GOOD LOANS TO BE MADE IN THIS ECONOMIC ENVIRONMENT.

DEPOSITS, WHERE DID THE DEPOSITS MOVE TO? WHERE WILL THE DEPOSITS MOVE TO?

TAXES, IF DEPOSITS, PROFITS, AND LOANS ARE MOVED AROUND WITHIN THE HOLDING COMPANY STRUCTURE, ARE THE INDEPENDENT BANKS GOING TO PAY THE ENTIRE TAX BILL FOR ALL MONTANA BANKS. WE CERTAINLY WILL NOT HAVE THIS PROBLEM OVERLOOKED BY THE LEGISLATURE.

Paul D. Caruso, Jr.

President

First Security Bank of Helena

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HB 151



## Branch Bullying: Big Texas Banks Drain Deposits From Small-Town Units, Cutting Off Locals' Credit

By LEONARD M. APCAR  
And BUCK BROWN

Staff Reporters of THE WALL STREET JOURNAL  
LUFKIN, Texas—When the big Dallas and Houston banks moved into Lufkin in the 1970s, they promised to transform this dusty sawmill town into an East Texas money center.

Suddenly, multimillion-dollar credit lines were available to local companies. Sophisticated trust services were dangled before rich lumber and oil families. Dollars flowed from automated teller machines. Drive-up banks engulfed two square blocks.

With little Lufkin finally enjoying the benefits of big-city banking, people celebrated. The grand opening of one bank's four-story building was something: hot-air balloons, prizes and an appearance by gold-medal gymnast Mary Lou Retton.

### Promised Prosperity Lost

But today, the "new age" promised by the arrival in Lufkin of Dallas-based First RepublicBank Corp. and Houston-based First City Bancorp. of Texas has sunk into a dark age.

Some Lufkin banks—and hundreds of little ones like them that were absorbed by big Texas banking chains in recent years—now are caught in a mess not of their own making. As loan losses at money-center banks in Dallas and Houston mount, banks all across the state are under strict orders to shovel hard-earned dollars to their sickly, cash-starved holding companies. So the banks are systematically cutting local borrowers' loans and credit lines.

The upshot: Deposits generated in places such as Lufkin are being used to refinance shaky real-estate and energy loans in Dallas and Houston. And with the little banks left with little money to lend, local businesses are being squeezed—some right out of business. The big banks "are just choking the entire state," says F. Hagen McMahon Jr., executive director of the Independent Bankers Association of Texas.

What annoys everyone in Lufkin from a local Chamber of Commerce to the Baptist minister is that the little town had nothing to do with the energy and real-estate lending debacle in Houston and Dallas but is paying the price for it.

### Shifting Funds

As recently as 1983, nearly 66% of the deposits at the little banks now owned by

First RepublicBank were recycled back to the small towns as loans. Today, that total has shrunk to 41%, and \$1 billion once in borrowers' hands has vanished. And more than half the funds that its local banks invest in loans and securities have gone to Dallas, up from only 14% five years ago.

The never-ending crisis in Texas banking is panicking investors, who have lost millions of dollars. It's rattling the nation's capital, where administration officials fear that federal bailouts of Texas banks and thrift institutions, a third of which are insolvent, could increase the national budget deficit by more than \$10 billion.

But numbers of that magnitude mean little to the people in Lufkin (population 32,000) and similar Texas towns. What troubles them is that a Lufkin merchant who had banked without difficulty for 22 years now can't get a \$12,000 loan to repair the leaky roof of his store. Or that a local physician is being ordered to repay a \$10,000 note for no apparent reason. Or that one of their good friends is going out of business because the big-city bankers arbitrarily cut him off.

"Probably everybody that's in business in Lufkin has had their business whittled down or their borrowing power cut," says an auto dealer, whose own credit line was slashed 20%.

### Already-Ailing Economies

Lufkin's economy, like that of many towns big and small in the Southwest, had already been hit hard by the depression in the energy industry. Business and personal bankruptcies in East Texas have soared twentyfold since 1986. Thousands of mill workers, carpenters and oil-field rough-necks have lost their jobs. And now, as businessmen in Lufkin and other little towns turn to First RepublicBank and First City, the money-center banks that once promised them all the financial support they would ever need, they're getting little help.

In Lufkin, chicken farmers Edgar and Gilbert Burton recently filed personal bankruptcy petitions because their bankers refused to carry them until egg sales pick up in the fall. In nearby Henderson, Roger Ellis wakes up in the middle of the night because his Dallas-owned bank, which once promised him an endless supply of credit, is demanding that he pay off his construction company's note even though

he has never missed a payment. And in Temple, hundreds of miles west of here, a roofing company was ordered by its Dallas-controlled bank to either pony up a \$100,000 deposit or risk losing a \$200,000 credit line.

"The banks have gotten a little bit rough and a little bit mean," says James A. Jones, whose Piney Woods Tractor & Implements Inc. in Lufkin has lost sales because the banks refuse to finance some of his customers.

First RepublicBank, whose federal bailout is pending, and First City, whose federally aided \$1.5 billion restructuring was completed last month, both acknowledge that they are relying heavily on their small-town banks for funds, but they insist they're still lending money in the big cities and small towns. The problem, they say, is a lack of profitable opportunities anywhere in the state, and they are trying to limit risk.

In any event, a mixture of anger, frustration and feelings of betrayal lingers over Lufkin and other little towns nearby. That contrasts sharply with the spirit of optimism in such places a few years ago. Surrounded by abandoned paper mills and shut-in oil wells, these people had turned to the big-city bankers for help. Their own little banks were pressed for funds to expand, and the "friendly bankers" down at First RepublicBank and First City were offering to be helpful.

"The banks promised big stuff," says Roger Mercer, a Nissan dealer here.

And for a time they delivered, opening a spigot of easy credit that created a building boomlet and changed the face of these backwoods towns. Apartment complexes, motels and a country club soon sprouted around Lufkin. There was even talk of turning the area into a tourist mecca using Lake Sam Rayburn, the state's largest man-made lake, as a playground.

At last, the "boys up in the glass tower," as locals now derisively call them, changed their tune. "They took virtually everything out of the control of the local banks," Mr. Mercer says. The arm-around-the-shoulders friendliness that once greeted customers has given way to straight-armed, clipped answers. Locals are whispering about a "hit list" of customers that First RepublicBank Lufkin is pressing for repayment.

### Tractor Dealer's Trouble

First RepublicBank Lufkin recently summoned a Lufkin tractor dealer to the bank, where stone-faced accountants unfurled spread sheets showing the mortality rate of firms in his industry. It didn't matter that his loans were current. His company had lost money for two years running, and the odds were stacked against him. Bankers whom the businessman had never seen before said they would have to cut his credit line to \$50,000 from \$1 million. He was stunned: Without the big credit line, he couldn't finance his inventory, and sales would shrivel.

The tractor dealer eventually found financing at a small, locally owned bank and a large, out-of-town credit company. But he's still fuming. "The dang thing that hacks me off is that all of a sudden I was a statistic and not an individual," he says.

Roger Ellis fears that soon he will become a statistic. For months, the 45-year-old construction contractor has been conducting a self-styled liquidation because First RepublicBank Henderson refused to refinance a \$250,000 loan. Mr. Ellis recently sold an excavator, two bulldozers and several trucks to cut his debt to \$130,000. But he had to lay off 20 of his 25 workers, and one supplier is suing him for unpaid bills. Meanwhile, he is again digging trenches with his backhoe during the day and going sleepless many nights worrying about his debts. "I feel like I've had all the wind knocked out of me," Mr. Ellis says. "I've been whipped down."

Local bankers acknowledge that corporate officials at First RepublicBank in Dallas have ordered all outlying banks to cut some commercial and real-estate lending. "The pressure is there to identify the problems," says H.J. "Jay" Shands III, the bank's 33-year-old chief executive whose family ran the Lufkin bank before First RepublicBank bought it. And he concedes that the bank's new owners, hard-pressed for deposits (federal regulators are pumping between \$2.5 million and \$3.5 million into the chain's banks each week), are enforcing credit policy rigidly.

"Our policy book was just as thick before the bank was sold," says Mr. Shands, pointing to a three-ring blue binder. "The only difference was we never read it."

Edgar and Gilbert Burton wish they never had. The two Lufkin chicken farm-

ers filed their bankruptcy petitions last month after First RepublicBank Lufkin refused to lend them the \$500,000 they needed to feed their 750,000 chickens and meet other obligations. The brothers already owed the bank \$2.5 million, and local officials told them that another loan would exceed the Lufkin bank's legal limit. They were told to plead their case with corporate officials at First RepublicBank Dallas, whose now-defunct agricultural-loan division had once lent the funds to purchase a second chicken ranch and just about anything else they wanted.

But their pleas fell on deaf ears. First RepublicBank Dallas "was broker than I was," Edgar Burton says. "If I had any money, they would have wanted to borrow it."

### Whole Town Upset

The hard line taken by "the boys up in the glass tower" is riling the whole town. In the midst of a meeting, a Lufkin attorney suing First City gets a call from a stunned physician who says one of the banks just ordered him to repay a \$10,000 note. The lawyer fuels the flames. "These damn people in Houston and Dallas sure are fangling things up, aren't they?" he says.

Charles S. McIlvaine, the pastor of Lufkin's First Baptist Church, says donations had dropped so much that he held off filling two staff openings. Concerned about the church's ability to pay for a \$3.5 million expansion, the church opted for a three-year note on the project rather than a shorter term.

The credit squeeze is also creating emotional strain. The manager of Lufkin's Waldenbooks says that the store frequently runs out of "Overcoming Depression" and that tapes on how to deal with stress are a hot item. Local psychotherapists say cases of stress and family tension are soaring. Edgar Burton concedes that at first he was deeply depressed watching the family's business collapse after 33 years. "I've done my crying," he says.

Mr. Shands, the banker, is acutely aware of the pain his bank's credit squeeze is creating in Lufkin. "It hasn't been pleasant," he says. "I wish I'd been a school teacher."

MOST JOBS CREATED IN MONTANA IN THE LAST DECADE WERE RELATED TO THE EXPANSION OF SMALL BUSINESSES AND ENTREPRENEURIAL ENDEAVORS. THE OUTLOOK INTO THE NEXT CENTURY INDICATES THAT THAT IS WHERE MONTANA'S FUTURE GROWTH WILL COME. STATISTICS SHOW THAT IN 1980 SMALL BANKS UNDER 100 MILLION IN DEPOSITS MADE 88% OF ALL SMALL BUSINESS LOANS. THESE SMALL BANKS HELD ONLY 23.3% OF THE NATION'S BANKING ASSETS. MEDIUM-SIZED BANKS (100 MILLION TO 1 BILLION) MADE 10.4% SMALL BUSINESS LOANS, WHILE HOLDING 23.9% OF THE NATION'S BANKING ASSETS. THE LARGEST BANKS, REPRESENTING 52.8% OF THE NATION'S BANKING ASSETS, ONLY MADE 1.3% OF SMALL BUSINESS LOANS. DOES THIS MAKE YOU THINK WE SHOULD CONCENTRATE MORE AND MORE OF BANK ASSETS IN FEWER, LARGER BANKS?

IN COLORADO THE FIRST BANK SYSTEM WANTS STATEWIDE BRANCHING IN ORDER TO ELIMINATE PERSONNEL AND OVERHEAD OF THE 19 COLORADO BANKS IT JUST ACQUIRED FROM CENTRAL BANCORP. FBS IS MOVING DATA PROCESSING OPERATIONS TO MINNEAPOLIS TO SAVE AN ADDITIONAL 3 MILLION ANNUALLY.

DO YOU THINK THE SAME THING WON'T HAPPEN IN MONTANA? IT HAS ALREADY BEGUN.

DO YOU THINK SHIPPING MONTANA JOBS GENERATED BY MONTANA CAPITAL IS IN THE BEST INTEREST OF THE STATE, OR YOUR CONSTITUENTS?

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IN ARIZONA THREE BANKS CONTROL 85% OF THAT STATE'S BANKING ASSETS. IF THIS WERE TO HAPPEN IN MONTANA UNDER THE NEW LEGISLATION PROPOSED BY MBA, 3 BOARD OF DIRECTORS WOULD MAKE 85% OF THE LOAN DECISIONS AFFECTING MONTANA BORROWERS.

DO YOU REALLY THINK THAT WOULD BE IN THE BEST INTEREST OF YOUR CONSTITUENTS WHO BORROW MONEY AND INVEST THAT MONEY IN ORDER TO CREATE MONTANA JOBS?

QUESTION FOR ANYONE FROM FIRST BANKS - OR FOR CADBY IF NO ONE FROM FIRST TESTIFIES:

A LAWSUIT HAS BEEN FILED SEEKING DAMAGES FOR SHAREHOLDERS FOR A "RECKLESS" GAMBLE ON U.S. TREASURY SECURITIES THAT WILL COST FIRST BANK SYSTEM, INC., ABOUT \$500 MILLION THIS YEAR.

THE COMPLAINT ACCUSES THE MINNEAPOLIS BANK HOLDING COMPANY OF ENGAGING IN "RECKLESS HIGH-RISK SPECULATIONS ON INTEREST RATES."

"VIRTUALLY NO OTHER BANKING INSTITUTION ENGAGED IN THIS HIGHLY SPECULATIVE ACTIVITY TO THE EXTENT THAT DEFENDANTS DID," SAYS THE COMPLAINT. "BY PURCHASING LONG-TERM BONDS WITH SHORT-TERM MONEY, DEFENDANTS WERE IN EFFECT GAMBLING WITH FBS' ASSETS AND EARNINGS, RECKLESSLY SUBJECTING FBS TO BOTH SUBSTANTIAL ASSET AND CAPITAL IMPAIRMENT."

WHAT SHARE OF THIS LOSS WILL MONTANA FIRST BANKS ABSORB?  
WHAT SHARE OF THIS LOSS WILL YOUR COUNTY OR CITY ABSORB AS A LOSS IN TAX REVENUE?

WILL FIRST BANK SYSTEM HAVE TO CALL IN LOANS TO COVER THEIR LOSSES LIKE THE BIG TEXAS BANKS DID?

MBA SENT YOU INFORMATION REGARDING THEIR BILL CALLED THE  
"FIVE POINT RESTRUCTURE BILL." ONE OF THE FIVE POINTS THEY  
STRESS ASKS THE QUESTION:

WILL DEPOSITS STAY WITHIN THE COMMUNITY?

THEIR ANSWERS:

1. INVESTMENT DECISION POLICIES STAY THE SAME.
2. ALL BANKS INVEST YOUR DEPOSITS IN A VARIED  
PORTFOLIO OF SECURITIES AND LOANS LIKE ANY OTHER  
BUSINESS OR INDIVIDUAL.
3. LOANS DEPEND ON DEMAND, YIELD AND RISK ARE  
PREFERRED INVESTMENTS.

DO THEIR ANSWERS REALLY SATISFY THE QUESTION OR DO THEY  
JUST SEEM TO DANCE AROUND THE QUESTION?

PERHAPS THE ANSWER LIES IN AN ARTICLE BY PAUL J. HOLLEY, A  
BUSINESS JOURNALIST, WHOSE ARTICLE APPEARED IN THE NOVEMBER 13  
ISSUE OF THE BILLINGS GAZETTE. MR. HOLLEY SAYS, "OH YES, SOME  
ARGUE THAT THE DREADED "MINNESOTA TWINS" - FIRST BANK SYSTEM  
AND NORWEST CORP. - WILL USE LIBERALIZED STATE BANKING LAWS TO  
SUCK MONEY OUT OF COMMUNITIES AND WHISK IT (GASP!) OUT OF  
STATE.

WELL, I'M HERE TO TELL YOU THAT IT'S ALREADY HAPPENED AND  
WILL CONTINUE TO HAPPEN. THE TWINS ARE JUST TWO OF THE MANY  
PLAYERS INVOLVED.

AS ECONOMISTS WILL TELL YOU: CAPITAL FLOWS WHERE IT'S  
NEEDED."

IF YOU THINK CAPITAL IS NEEDED IN MONTANA, DO YOU THINK HB  
151 IS IN THE BEST INTEREST OF YOUR CONSTITUENTS?

MINNESOTA-OWNED BANKS LIKE TO BOAST THAT THEIR MONTANA AFFILIATES HAVE A HIGHER LOANS-TO-DEPOSIT RATIO THAN OTHER BANKS. THE LATEST FIGURES RELEASED BY SHESHONOFF INDICATE OTHERWISE. NATIONALLY, BANKS HAVE APPROXIMATELY 70% OF THEIR ASSETS LOANED OUT, WHILE IN MONTANA FIRST BANK HAS ONLY 48.8% OF THEIR ASSETS LOANED OUT. IF FIRST BANKS LOANED OUT AT THE NATIONAL AVERAGE, AN ADDITIONAL \$297,000,915 WOULD BE AVAILABLE IN MONTANA.

ALSO BASED ON AN ESTIMATE BY A FEDERAL RESERVE SYSTEM ECONOMIST, HOME TOWN BANKS HAVE THE LARGEST PERCENTAGE OF THEIR ASSETS IN LOANS IN THEIR COMMUNITIES (57%) WHILE REGIONAL AND NATIONAL MONEY CENTERS HAVE ONLY 29% OF THEIR ASSETS LOANED LOCALLY.

DO YOU REALLY THINK THAT CREATION OF LARGER AND LARGER BANK SYSTEMS WILL CREATE MORE LOANS OF MONTANANS' OR MINNESOTANS'?

IS THIS BILL A METHOD OF REDUCING TAX LIABILITY FOR THE  
LARGE BANKING SYSTEM?

IS THIS BILL THE FIRST STEP IN MAKING A MORE ATTRACTIVE  
PACKAGE FOR LARGE OUT-OF-STATE BANK HOLDING COMPANIES TO SELL  
THEIR HOLDINGS TO LARGE INTERSTATE BANKS OR MULTI-NATIONAL  
BANKS? IS PERMITTING INTERSTATE BANKING THE NEXT LEGISLATION  
FOR 1991?

IF THIS BILL PASSES, LOCAL CONTROL BY LOCAL BOARDS OF  
DIRECTORS WILL BE LOST. DO YOU THINK MONTANA DEPOSITS WOULD  
BE LOANED AND INVESTED IN MONTANA OR WOULD THEY MORE LIKELY BE  
DISTRIBUTED IN MINNESOTA?

WILL MERGER AND CONSOLIDATION CAUSE A LOSS OF MONTANA JOBS  
TO OUT-OF-STATE BANKING CENTERS - WILL OUR DEPOSITS, AND  
PROFITS MADE BY THEIR INVESTMENT, PROVIDE JOBS HERE OR IN  
MINNESOTA?

TO ANYONE FROM FIRST OR NORWEST (ANYWHERE OTHER THAN  
BILLINGS): HOW MANY JOBS HAVE YOU TAKEN OUT OF THE (HELENA/  
KALISPELL/ MISSOULA ECONOMY WITH YOUR CONSOLIDATION OVER THE  
LAST 3 OR 4 YEARS?



IS THE REAL PURPOSE OF THIS LEGISLATION TO MAKE LOANS  
EASIER FOR FARMERS AND SMALL BUSINESSMEN OR IS IT TO INCREASE  
THE LEGAL LENDING LIMIT TO A SINGLE BORROWER? TO GO ONE STEP  
FURTHER WITH THE QUESTION, HOW WOULD A SMALL BUSINESSMAN FARE  
THEN, IF A LARGE CORPORATE CUSTOMER OF A MERGED BANK WERE TO  
ASK FOR AN INCREASE IN THEIR BORROWING LIMIT?

IS HB 51 GOING TO BENEFIT MONTANANS OR IS IT INTENDED TO  
BENEFIT PROFITS FOR THE MINNESOTA BANK HOLDING COMPANIES?

HB 151 AND COUNTY REVENUE

EXHIBIT 12  
DATE 1/18/89  
HB 151

Bank Of Montana 1987

| County                                               | Under Existing Law | Under HB 151 County Revenue (+ -) |
|------------------------------------------------------|--------------------|-----------------------------------|
| Cascade                                              | \$43,000.00        | \$24,000.00 - \$19,000.00 -45%    |
| Missoula                                             | \$10,000.00        | \$13,000.00 + \$ 2,000.00 +25%    |
| Hill                                                 | \$58,000.00        | \$37,000.00 - \$21,000.00 -37%    |
| Total State Tax Before Hb 151, (All Banks) \$202,000 |                    | After HB 151/ \$152,000           |

Montana Bancsystems 1987

|                                                      |             |                                |
|------------------------------------------------------|-------------|--------------------------------|
| Missoula                                             | \$81,000.00 | \$24,000.00 - \$57,000.00 -70% |
| Silver Bow                                           | \$59,000.00 | \$20,000.00 - \$30,000.00 -55% |
| Carbon                                               | \$ 8,000.00 | \$11,000.00 + \$ 3,000.00 +38% |
| Total State Tax Before HB 151, (All Banks) \$159,000 |             | *After HB 151/ \$0             |

Northwest 1987

|                                                      |              |                                |
|------------------------------------------------------|--------------|--------------------------------|
| Cascade                                              | \$113,000.00 | \$21,000.00 - \$92,000.00 -82% |
| Deer Lodge                                           | \$ 68,000.00 | \$19,000.00 - \$49,000.00 -71% |
| Yellowstone                                          | \$ 72,000.00 | \$30,000.00 - \$42,000.00 -58% |
| Total State Tax Before HB 151, (All Banks) \$348,000 |              | After HB 151/ \$279,000        |

First Bank Systems 1987

|                                                        |              |                                  |
|--------------------------------------------------------|--------------|----------------------------------|
| Cascade                                                | \$300,000.00 | \$184,000.00 - \$123,000.00 -41% |
| Missoula                                               | \$240,000.00 | \$140,000.00 - \$100,000.00 -42% |
| Silver Bow                                             | \$120,000.00 | \$ 86,000.00 - \$34,000.00 -29%  |
| Total State Tax Before HB 151, (All Banks) \$1,000,000 |              | *After HB 151/ \$1,000,000       |

The Big Losers: Cascade, \$243,000.00  
Missoula, \$155,000.00  
Silver Bow, \$64,000.00

All figures are estimated from reports of net income. The only way to represent these figures accurately is to have the Dept. Of Revenue compile projection from confidential tax records.

\*Bancsystems recorded a number of negative earning banks.  
\*First Banks recorded no losses.

January 18, 1989

HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

Room 312-3, 8:00 a.m., Chairman Pavlovich

- I. Introduction - Montana Independent Bankers
- II. Opposition to H.B. 151 - The Branching Bill
- III. Testimony to focus on two areas drawn from experience as  
Director of the Department of Commerce and as Chairman of  
Montana State Banking Board
  - A) While at Commerce, I was able to stay detached from this  
issue
  - B) Montana bank structure performance
  - C) Economic development in Montana
- IV. Montana Bank Structure
  - A) The Montana bank structure has evolved to meet the  
particular needs of our state's economy
  - B) It is a competitive playing field, not a tilted field  
as some would represent
  - C) The Montana banking industry has been going through  
some very difficult times
    - 1. Bank closures
    - 2. Bank sales - banks do sell
    - 3. Banks in trouble
    - 4. We are not out-of-the-woods yet
  - D) We have survived intact with our bank structure suited  
to Montana. New bank applications

EXHIBIT 13  
DATE 1/18/89  
HB 151

V. Economic Development in Montana

A) The evolving Montana economy

H.B. 151

B) I-95, Montana Coal Tax Loan Program

C) April 30, 1982, Robert L. Reiquam; President, Montana Bankers Association

Initiative 95, which would place one-fourth "of all future deposits to the permanent coal tax trust and invest it in Montana's economy" -- the state would make no direct loans, but would emphasize investments in new or expanding enterprises" is not a sound proposal. Montana bankers would like to see additional dollars from the coal tax trust fund deposited on interest in Montana banks. These funds could earn a good rate of interest in these banks, but Montana bankers are very concerned about the balance of this initiative, which would create an economic development fund and would emphasize investments in new or expanding enterprises. This, then begins to smack of credit allocation.

D. Program Status

1. Since inception there have been \$68M in loan applications
2. \$32M invested in 202 loans
3. 125 current loans outstanding, 5 delinquent all guaranteed by a federal program. Not a bad performance by any standard

4. Of the 200 loans a full 160 or 80% have been initiated by one group of bankers (guess) and 40 or 20% by holding company banks
5. Availability of quality loans
6. Attitude of lenders and lending policies

H.B. 151

7. Report - Commercial Bank Lending Patterns and Economic Development in West Virginia
  - a) Bank structure plays a role
  - b) Attitude is determinate
8. Could site examples of the problems faced by professional finance packagers
9. H.B. 151 is not the solution to loan ratios or attitudes

VI. Close - Quote from President of First Bank Systems, DeWalt Ankeny from Commercial West Magazine in August, 1985. "We believe many small towns today can be more efficiently served by a local community bank that does not have the substantial overhead of a multistate banking system."

Mr. Chairman & Members of the Committee

Gary B. Carlson, CPA  
Shareholder  
Anderson ZurMuehlen & Co., P.C.

Testimony - HB-151

Our Firm's income tax practice includes financial institutions - both banks and savings and loans and the related preparation of Corporation License Tax returns.

SAME TAX STRUCTURE AS SAVINGS & LOANS

Should a group of two or more banks choose to merge under the proposed bill, the resulting tax entity would be the same tax structure as savings and loans with branches have been reporting under for the past ten years. This presently includes 11 savings and loans, 35 branches, and one bank with a branch.

IMPACT ON NET OPERATING LOSSES

If two or more banks merge, following the passage of the proposed legislation, all existing net operating losses, carrying forward of any of the separately merged banks, are immediately forfeited. Therefore, future state and county tax revenue would not be offset by existing carryforward losses upon merger - thus increasing tax revenue.

14  
DATE 1/18/89  
HB 151

## PROFITABILITY

The revenue from corporation license tax collections is dependent on the Montana economy and corporate profitability since it is measured by income for ALL Montana Corporate tax paying entities.

A healthy Montana economy, more than likely, will result in increasing bank operating profits and, thereby, increasing Corporation License Tax revenues. The tax impacts are dependent on the economy, more than on merger. Merger, if implemented by banks, may help stabilize bank tax revenues.

## NOT A TAX BILL

It is important to note, the bank restructure bill (House Bill 151) does not change any existing tax law or add any new tax provisions.

I am handing out separate analyses related to tax impacts, for your review.

I am available to answer your questions regarding the tax impacts of bank merger.

Thank you.

to be taken out by a person controlling it or person who would not like to stand up and speak but wants their testimony entered into the record.

# WITNESS STATEMENT

NAME Bruce MacKenzie BUDGET \_\_\_\_\_

ADDRESS 8 THIRD STREET NORTH

WHOM DO YOU REPRESENT? DADCO INCORPORATED (TRUST CORPORATION OF MONTANA)

SUPPORT \_\_\_\_\_ OPPOSE \_\_\_\_\_ AMEND X

COMMENTS: HB 151 would permit continued branching of Trust Offices by major Banks, but in effect provisions does nothing to permit similar branching by independent STATE CHARTERED TRUST COMPANIES such as TRUST CORPORATION OF MONTANA.

By AMENDING Section 4 of the bill by deleting any REFERENCE to "Trust Company" in Section 32-1-371(1), Trust businesses would be free from the PROVISIONS on BRANCH OFFICES which apply to COMMERCIAL BANKS.

Trust Companies fulfill an entirely separate financial service to clients that should not be subjected to the same restrictions imposed on commercial banks. The service is highly personal and requires significant personal contact with clients available best through a branch office.

Bruce A MacKenzie  
(727-4200)

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



106  
171

NAME Dan CARLSON BUDGET \_\_\_\_\_

WHOM DO YOU REPRESENT? MBA

SUPPORT XXX OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

COMMENTS: \_\_\_\_\_

Testimony were submitted separately.

- Argued at point in time related to profitability  
IS the main question

Form CS-34A  
Rev. 1985

Paul Bushnell HURI  
Steve Stagle  
BRUCE VINCENT

MT <sup>(HURI)</sup> Snowblower  
MT 4x4 Assn  
LIBBY, MT.

off  
X  
X  
X



## VISITORS' REGISTER

Business & Economic Devp. COMMITTEEBILL NO. HB 151DATE 1/18/89SPONSOR Rep Swift

| NAME (please print) | RESIDENCE         | SUPPORT | OPPOSE |
|---------------------|-------------------|---------|--------|
| LYNN G ROBEL        | GLASGOW, MT       | X       |        |
| MARK SIFTY          | BILLINGS, MT.     | X       |        |
| Walter FRANKLIN     | SIDNEY, MT.       | X       |        |
| Larry Moore         | Cascade MT        | X       |        |
| Tim Bennett         | Billings, MT      | X       |        |
| EARL D. LOVICK      | Libby, MT.        | X       |        |
| SAM DASLOS          | TROY MT           | X       |        |
| MARTIN M. OLSSON    | ROMAN, MT         | X       |        |
| Robert Henry        | Missoula MT       | X       |        |
| John Witte          | Leaky, MT         | X       |        |
| Verna Helge         | Missoula, MT      | X       |        |
| Paul Manuel         | Helena            | X       |        |
| Rodney L Smith      | Red Lodge         | X       |        |
| Judy Smith          | Red Lodge         | X       |        |
| Bill Singsen        | Chinook           | X       |        |
| Neysha Humphreys    | Helena            | X       |        |
| ✓ Fred Gariepy      | St. Ignatius      |         | X      |
| John Cady           | Helena            | X       |        |
| Ken Hendrick        | Twin Bridges, mt. | X       |        |

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

COMMITTEE

BILL NO. HB 151DATE 1-18-89SPONSOR Swift

| NAME (please print) | REPRESENTING                         | SUPPORT | OPPOSE |
|---------------------|--------------------------------------|---------|--------|
| Samuel R. Noel      | Citizens State Bank                  | ✓       |        |
| W. E. Thum          | 1 <sup>st</sup> Security Bank        | ✓       |        |
| Ray B. Lewis        | MTBA                                 |         | ✓      |
| Wayne Nelson        | First Security Bank - Bogeman        |         | ✓      |
| Bustoe Scheelberg   | Mountain Bank - Whitford             |         | ✓      |
| Rubel A. Maurer     | Valley Bank - Kalispell              |         | ✓      |
| Dennis DeVries      | Security State Bank Poken            |         | ✓      |
| Ron Ahlens          |                                      |         | ✓      |
| Paul Ringling       | Menture Alliance                     | ✓       |        |
| GENE COOMBS         | BILLINGS<br>FIRST INTERNATIONAL BANK |         | ✓      |
| DAN JORDAHL         | V V ✓                                |         | ✓      |
| Mike Guree          | FNB White Sulphur                    | ✓       |        |
| Ray B. Lewis        | MTBA                                 | ✓       |        |
| Steve Browning      | Bankers Coalition                    | ✓       |        |
| Tom Dowling         | MIB                                  |         | ✓      |
| Keith L. Colbo      | MIB                                  |         | ✓      |
| Roger Tippet        | MIB                                  |         | ✓      |
| KILEY JOHNSON       | NFIB                                 |         | ✓      |
| Tom Chomera         | Dept. of Revenue                     |         |        |

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## COMMITTEE

BILL NO.

DATE \_\_\_\_\_

SPONSOR

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

#### HOUSE COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By Rep. Bob Pavlovich, on February 8, 1989, at  
8:00 a.m.

#### ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Paul Verdon and Sue Pennington

Announcements/Discussion: None

#### EXECUTIVE ACTION

##### DISPOSITION OF HOUSE BILL 151

Motion: Rep. Thomas moved DO PASS.

Amendments, Discussion, and Votes: Rep. DeMars, chairman of the  
sub-committee, went over all of the amendments to HB 151.

Rep. Thomas explained what each amendment would do to the  
bill.

Rep. Simon had questions about amendments 3, 4, and 5. Rep.  
Simon asked Rep. Thomas when we say a bank must offer all  
services, what is an all bank services under this  
definition? Would a branch have to have all the kinds of  
service like escrow and safe deposit boxes? Rep. Thomas  
said the bill provides that a branch must offer all services  
which are offered by the main banking house. The issue you  
addressed in the Libby bank, if they don't have safe deposit  
boxes, they would not have to offer them at a Troy branch.

Rep. Glaser said safe deposit is one of the major services a  
bank has, we discussed the difference between a teller  
machine and the bank this is very important. Rep. Thomas  
asked if a service is not offered at the main bank now what  
does it matter? It is up to that bank. The amendment says  
that if it is offered at the main bank, they have to offer  
it at a branch.

Rep. Thomas said the amendments were to make the language  
work and be constructive, not destructive.

Rep. Thomas moved DO PASS. The amendments DO PASS 10-6 vote.

Rep. Glaser said one bill is a consumer bill and we are talking about what is in the best interest of the consumer and the other is a banker bill and we are talking about what is in the best interest of the banker. The bankers that are for HB 151 came in and prevented Troy from having a bank of their own in December by saying we are going to have a bill in January that is going to allow us to do this, so you can't put a new bank in Troy. You are talking about two different bills, one is for the consumer, the other is for the bankers.

Recommendation and Vote: HB 151 DO PASS as amended 9-7 vote.

#### DISPOSITION OF HOUSE BILL 191

Motion: Rep. Glaser moved DO PASS as amended.

Amendments, Discussion, and Votes: Rep. Thomas read each amendment to the bill.

Rep. Glaser said because there apparently isn't an advocate for HB 191 on the sub-committee I don't object to Mr. Tippy explaining the amendments because I don't see one sub-committee member talking for Mr. Tippy's point of view. Rep. Bachini said our intention was to let both bills go to the house and let you people determine whether you want either one. You can't work HB 151 into HB 191. If you are going to do anything you have to work with HB 151. It is up to the committee if you want to pass both bills out or not but that was our opinion in the sub-committee that we let both bills go out as do pass. Rep. Thomas said it was his intention of course, as I had already ask Roger to explain these amendments in more detail. It is not my intention to ask anyone else to speak on the other amendments. In no way am I speaking for the big banks. Roger Tippy then explained what each amendment meant and what it changed in the bill.

Recommendation and Vote: HB 191 DO PASS as amended with the statement of intent 12-4 vote.

#### HEARING ON HOUSE BILL 556

Presentation and Opening Statement by Sponsor:

Rep. Cocchiarella stated that this is a consumer protection bill. It requires the commissioner of insurance to provide by rule for disclosure of interest rates applicable to life insurance policies. This requires the agent to disclose what the interest rates will be to the consumer before they buy the policy.



DAILY ROLL CALL  
BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date 2 8 89

| NAME                   | PRESENT | ABSENT | EXCUSED |
|------------------------|---------|--------|---------|
| PAVLOVICH, BOB         | ✓       |        |         |
| DeMARS, GENE           | ✓       |        |         |
| BACHINI, BOB           | ✓       |        |         |
| BLOTKAMP, ROB          | ✓       |        |         |
| HANSEN, STELLA JEAN    | ✓       |        |         |
| JOHNSON, JOHN          | ✓       |        |         |
| KILPATRICK, TOM        | ✓       |        |         |
| MCCORMICK, LLOYD "MAC" | ✓       |        |         |
| STEPPLER, DON          | ✓       |        |         |
|                        |         |        |         |
| GLASER, BILL           | ✓       |        |         |
| KELLER, VERNON         | ✓       |        |         |
| NELSON, THOMAS         | ✓       |        |         |
| SIMON, BRUCE           | ✓       |        |         |
| SMITH, CLYDE           | ✓       |        |         |
| THOMAS, FRED           | ✓       |        |         |
| WALLIN, NORM           | ✓       |        |         |
| PAUL VERDON            | ✓       |        |         |
|                        |         |        |         |
|                        |         |        |         |
|                        |         |        |         |
|                        |         |        |         |
|                        |         |        |         |

STANDING COMMITTEE REPORT

2-8-89  
1:25 PM  
J.C.  
February 8, 1989

Page 1 of 2

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 151 (first reading copy -- white) do pass as amended .

Signed: \_\_\_\_\_  
Robert Pavlovich, Chairman

And, that such amendments read:

1. Page 2, line 14.

Following: line 13

Insert: "(7) "Community advisory board" means a group of citizens to advise the management of a branch bank, a majority of whom must be residents of the county in which the branch bank is located."

Renumber: subsequent subsections

2. Page 6, line 6.

Following: line 5

Insert: "(c) Two or more banks under common ownership may not consolidate or merge unless all banks under the common ownership are parties to the consolidation or merger."

3. Page 7, line 7.

Strike: "Any service that may be"

Insert: "A branch bank must offer all services"

4. Page 7, lines 7 and 8.

Following: "offered" on line 7

Strike: remainder of line 7 and through "conducted" on line 8

5. Page 7, lines 8 and 9.

Following: "house" on line 8

Strike: remainder of line 8 and through "bank" on line 9

6. Page 9, line 21.

Following: "bank"

Insert: ", other than a bank owned by a holding company not located in Montana,"

2-8-89  
1-25-89  
February 8, 1989  
Page 2 of 2

7. Page 9, lines 22 and 23.

Strike: "in any county if the branch bank is to be established"

8. Page 10, line 1.

Strike: "or"

Insert: "and"

9. Page 10, line 9.

Following: "authority."

Strike: remainder of line 9 and lines 10 through 12 in their entirety and through "or" on line 13

Insert: "Nothing in this subsection allows a bank owned by a holding company not located in this state to acquire an interest in a bank in contravention of"

10. Page 10, line 15.

Following: line 14

Insert: "(6) A branch bank must have a community advisory board."

# MINUTES

## MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND INDUSTRY

Call to Order: By Chairman Gene Thayer, on March 6, 1989,  
at 10:00 a.m., Room 325

### ROLL CALL

Members Present: Chairman Thayer, Vice Chairman Meyer,  
Senator Boylan, Senator Noble, Senator Williams,  
Senator Hager, Senator McLane, Senator Weeding,  
Senator Lynch

Members Excused: None

Members Absent: None

Staff Present: Mary McCue, Legislative Council

Announcements/Discussion: None

### HEARING ON HOUSE BILL 151

#### Presentation and Opening Statement by Sponsor:

Representative Swift, House District 64 said HB 151 was a revised branch banking bill, and was a compromise bill. He stated that if HB 151 was passed, it would be an instrument through which small independent banks could become more competitive. He said the bill included any commercial bank, savings bank, trust company, investment company, or any other types of corporations who were carrying on the business of banking, trust company, or investment company. He stated the legislation was restricted to in-state institutions, as it did not allow institutions from another state to acquire by consolidation or merger, any institution doing business in this state. He said HB 151 allowed for one detached facility, and the use of satellite facilities within the county, or adjoining county where there was no bank or branch bank located. He stated the bank board would have to adopt rules necessary for administration and operation, but the act would not require any corporate tax structure change.

SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 10, 1989 3:14 pm

Mr. Chairman: I move to amend HB 151 (third reading copy -- blue)  
as follows:

1. Page 10, line 11.

Following: "in the county"

Strike: "or a county adjoining the county"

2. Page 10, line 14.

Following: "a"

Strike: "city in which"

Insert: "county adjoining the county in which the main banking  
house is located if"

3. Page 10, line 15.

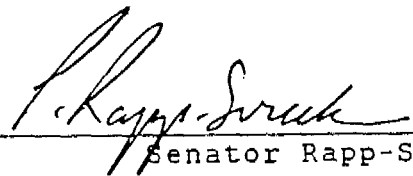
Following: "located"

Insert: "in that county"

ADOPT

REJECT

Signed: \_\_\_\_\_



Senator Rapp-Svrcek

218/89

BROWNING, KALECZYC, BERRY & HOVEN, P.C.  
ATTORNEYS AT LAW

28 NORTH LAST CHANCE GULCH

POST OFFICE BOX 1697

HELENA, MONTANA 59624

RECEIVED

APR 3 1989

TELEPHONE  
(406) 449-6220

TELECOPIER  
(406) 443-0700

MONTANA LEGISLATIVE  
COUNCIL

R. STEPHEN BROWNING\*  
STANLEY T. KALECZYC\*  
LEO BERRY  
J. DANIEL HOVEN  
OLIVER H. GOE  
KATHARINE S. DONNELLEY  
JON METROPOULOS

\*MEMBER OF MONTANA AND THE  
DISTRICT OF COLUMBIA BARS

March 31, 1989

Mr. Paul Verdon  
Office of Legislative Council  
Montana State Legislature  
State Capitol  
Helena, MT 59620

Re: HB 151--The 1989 Bank Restructure Act

Dear Paul:

I am writing to you concerning the legislative history of HB 151, the bank merger bill that you drafted for Representative Swift. As you know, HB 151, as amended by the House Business Committee, was signed into law by the Governor last Monday, March 27. The bill was not amended in the Senate, so it was not returned to the House. Nor was the bill amended on the House floor. Thus, the only amendments added to the bill were those that you drafted for the subcommittee in the House Business and Economic Development Committee, which were added by the full committee in February.

I am writing to you in connection with the amendments you drafted for Section 5, Subsection 4, which appear in the bill on page 10, lines 7 through 15. As you recall, the introduced version of HB 151 erroneously included the word "or" on page 10, line 13, which was subsequently changed to "and." The original draft of the legislation submitted by the Montana Bankers Association to Representative Swift used the word "and," which you changed to "or" during the redraft of the bill at Legislative Council prior to introduction. The intent of the Montana Bankers Association's lawyers and its Board of Directors was that a branch could only be established by a bank that met the two conditions set out in Subsection 4 (i.e., both subsection (a) and subsection (b) set out conditions which were required to be satisfied in order for a bank to be able to establish a single branch.

During the subcommittee deliberations, where it was decided to correct the mistaken use of the work "or," and replace it with the correct work "and," the decision was made to strike the phrase

Mr. Paul Verdon  
March 31, 1989  
Page 2

"in any county if the branch bank is to be established," which appears on lines 9 and 10 of page 10. I recall that you stated that the deleted phrase was duplicative and unnecessary.

Subsequently, on the Senate floor an amendment was offered by Senator Rapp-Svrcek (copy enclosed) which sought to revise the language of Subsection 4 of Section 5. Although Senator Rapp-Svrcek's amendment failed, I was concerned during the debate on the amendment that there might be some question raised about the interpretation of the requirements of Subsection 4. Specifically, one senator came to me and said that he interpreted subsections (a) and (b) as not being conditions that had to be fulfilled, but rather opportunities for the placement of branches. Specifically, the senator stated that he thought Subsection 4 allowed a bank to establish a branch bank anywhere in its county or adjoining county not covered by a city and anywhere in a city in which no bank or branch bank is located. In other words, he thought Subsection 4 allowed or authorized multiple branches. That was clearly not the intent of the Business and Economic Development Committee of the House when the final version of Subsection 4 of Section 5 was approved. Instead, the intent was that only a single branch could be established by any given bank, and that single branch could only be located in the county or adjoining county of the bank and only in a city in which no bank or branch bank was located at the time the branch bank was established.

I know we have talked about this matter several times, and I am certain we are in agreement on the correctness of my interpretation of the intention of Subsection 4 of Section 5. I am writing this letter with a request that you add it to the legislative history file on HB 151, just in case there is some question ever raised in connection with the meaning of the provisions discussed herein.

Thank you again for your assistance in this matter.

Sincerely,

BROWNING, KALECZYC, BERRY & HOVEN, P.C.

By Steve Browning  
R. Stephen Browning CRP

/arh

cc: Mr. Mark Safty  
Mr. John Cadby

## MINUTES

### MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND INDUSTRY

Call to Order: By Chairman Gene Thayer, on March 6, 1989,  
at 10:00 a.m., Room 325

#### ROLL CALL

Members Present: Chairman Thayer, Vice Chairman Meyer,  
Senator Boylan, Senator Noble, Senator Williams,  
Senator Hager, Senator McLane, Senator Weeding,  
Senator Lynch

Members Excused: None

Members Absent: None

Staff Present: Mary McCue, Legislative Council

Announcements/Discussion: None

#### HEARING ON HOUSE BILL 151

##### Presentation and Opening Statement by Sponsor:

Representative Swift, House District 64 said HB 151 was a revised branch banking bill, and was a compromise bill. He stated that if HB 151 was passed, it would be an instrument through which small independent banks could become more competitive. He said the bill included any commercial bank, savings bank, trust company, investment company, or any other types of corporations who were carrying on the business of banking, trust company, or investment company. He stated the legislation was restricted to in-state institutions, as it did not allow institutions from another state to acquire by consolidation or merger, any institution doing business in this state. He said HB 151 allowed for one detached facility, and the use of satellite facilities within the county, or adjoining county where there was no bank or branch bank located. He stated the bank board would have to adopt rules necessary for administration and operation, but the act would not require any corporate tax structure change.



List of Testifying Proponents and What Group They Represent:

John Cadby - Executive Vice President, Montana Bankers Association, Helena, Montana  
Mark Safty - Attorney, Billings, drafter of the bill  
Gary Carlson - CPA, Anderson-ZurMuehlen & Company, Helena, Montana  
Lynn Grobel - President of Montana Bankers Association  
President First National Bank Glasgow  
Jim Bennett - Immediate Past President of Montana Bankers Association  
President, First Citizens Bank, Billings  
John Witte - President, Traders State Bank, Poplar  
John D. Lawrence - President, Farmers State Bank, Worden, Montana  
Sam Noel - President, Citizens State Bank, Hamilton  
Sam Dasios - Businessman, Troy, Montana  
Earl Lovick - Director, First National Bank, Libby  
Bob Sizemore - President, Western Bank of Chinook  
Larry Moore - Cashier, Stockmen's Bank, Cascade  
Bill Thorndal - President, First Security Bank, Laurel

List of Testifying Opponents and What Group They Represent:

Roger Tippy - Montana Independent Bankers Association  
Keith Colbo - Montana Independent Bankers Association  
Dick Maurer - Valley Bank, Kalispell, Montana  
John Buchanan - President, Fidelity Savings and Loan, Great Falls, Montana

Testimony: Mr. John Cadby presented Exhibits #1, #2, and #3, and briefly discussed the information they contained. His testimony included a summary of HB 151, as it had been amended in the House, and the Montana Bankers Association's response to the Montana Independent Bankers proposed amendments. He said he would allow the individual proponents of the bill to elaborate on the individual areas of testimony.

Mark Safty, drafter of HB 151, presented testimony regarding federal laws which allowed the establishment, maintenance, and operation of branch banks, within certain circumstances. He reviewed the various statutes, acts, and court rulings surrounding the branch banking issue. (See Exhibit #4)

Gary Carlson gave an evaluation of HB 151, as to its fiscal impact to Montana Counties. He presented a review of the manner in which corporate license tax returns would be filed, and cited the corporate tax laws which would govern a merger. He stated that HB 151 would appropriately conform to taxation of merged banks (and

branches) to the taxation of other merged corporations in Montana. (See Exhibit #5, #22, and #23)

Lynn Grobel termed HB 151 a bank restructure act, which he supported. He said he wished to emphasize two main points. He said the heart of the bill was the merger-consolidation section, and branching. He said the second was the overwhelming support the bill had received from bankers in Montana. He stated HB 151 was a good, progressive, and timely piece of legislation, and urged the committee's support. (See Exhibit #6)

Jim Bennett reiterated the favorable aspects of HB 151, and asked for passage of the bill.

Jim Witte said he didn't have any plans for using the legislation, but he supported it's passage. (See Exhibit #7)

John Lawrence expressed his support of the proposed legislation, and cited some of the advantages of branch banking.

Sam Noel said he felt the banking structure in Montana was too restrictive, and expressed his support of HB 151. (See Exhibit #8)

Sam Dasios said he was a businessman from Troy, and their town wanted a branch bank. He said it was inconvenient, because they had to travel to Libby to do their banking. He said HB 151 would allow Libby to put a branch bank in Troy.

Earl Lovick said Libby wanted to put a branch bank in Troy. He said their bank was losing accounts, by not having a bank in Troy. He stated those were dollars that weren't available for loans, and tax dollars that were being lost, etcetera. He urged their support of HB 151.

Bob Sizemore stated his support of HB 151, and discussed the advantages of a branch banking system. He urged the committee to pass HB 151.

Larry Moore said he was there to offer support from the First Security Bank of Laurel. He said they were in favor of the legislation, and favored the branch banking system.

Bill Thorndal reiterated the points in favor of branch banking, and their support of the legislation before the committee. He said he favored passage of HB 151.

Roger Tippy expressed opposition to HB 151, and stressed the points they were opposed to, within the legislation. He read his testimony for the record. (See Exhibit #9)

Keith Colbo spoke in opposition to HB 151, and testified as to his experience as Director of the Montana Department of Commerce, and position on the Montana State Banking Board. He submitted his written testimony for the record. (See Exhibit #20 and #21)

Dick Maurer said he opposed HB 151, because there were certain risks with deregulation. He cited one good example of the ill effects of deregulation, was what had happened to the airlines in Montana. (See Exhibit #10) He presented an article from the May 25, 1988 Wall Street Journal, as another example of his concern over branch banking. (See Exhibit #11)

John Buchanan said he opposed HB 151, because he didn't think the legislation presented the right approach to branch banking. He said he felt total branching would better serve the consumer. He stated there was a present trend to consolidation of smaller banks, and larger banks were the only ones who had the lending capacity needed for major loans. (See Exhibit #24)

Questions From Committee Members: Senator Williams asked what the membership of the Montana Bankers Association was, excluding the Minnesota Twins? John Cadby said there were 21 banks in the First Bank and Norwest Bank Systems, and their membership included 157 member banks, of the 168 banks in Montana. He said of those 157 banks, 136 were independent banks, or Montana in-state holding company banks.

Senator Lynch said his area's main concern of two years ago was the possible loss of county level taxes. He asked if there would be a revenue loss with HB 151. Jerry Foster, Administrator of the Natural Resources Corporation Tax Division, said there could be all sorts of different scenarios of who would lose or gain. He said they thought the bill was drafted as close to neutral as possible, but when the banks merged, some counties would benefit, and some may lose. He said that was something they could not ascertain, and there could also be some loss in state revenue.

Senator Williams asked for a list of the towns mentioned earlier? Lynn Grobel said he did have a list of the small towns who could possibly have a branch bank, with passage of HB 151. (See Exhibit #12)

Senator Lynch asked about the provision which limited the new area receiving a branch bank, to be limited to only one branch bank? He asked, with considerable population growth, would they still be limited to one? John Cadby said the bill's provisions, banks had to seek approval from the State Banking Board to put in a branch, in any barren town. He said most barren towns were so eager to get a branch, that even one would be an improvement. He said he suspected that if legislature saw a need to expand the bill, down the road in a couple years, it could be addressed at that time. He said the bill didn't preempt anyone from applying for a bank charter for a unit bank.

Senator Lynch asked why the limit on the first come, first serve branch? Mr. Cadby said there theoretically could be two branch banks in a town, if the first was a state chartered branch, and the second application came from a national bank. He said national banks applied for their branch approvals from the federal regulators.

Chairman Thayer asked the bill's drafter if he would like to respond to Roger Tippy's testimony, regarding the vague language concerning what an unincorporated city was, and the confusion it may cause? Mark Safty said there was extensive time and research involved in the definition. He said the definition of city included in the bill, was the definition derived from a number of judicial decisions by the Montana Supreme Court. He said they felt it was the clearest possible definition available, under the circumstances.

Senator Weeding asked what the tax implications were, if a bank in one county merged with another bank in a neighboring county, and one of the banks then became a branch? He asked what the implications would be to the county, in which the branch bank was situated? Mr. Cadby said the counties and cities had not opposed the bill in the House or the Senate, because both organizations had no fear of HB 151. He said the amount of taxes paid to local government, was based on income taxes. He said banks and savings and loans were the only ones who shared the income taxes they paid to the state, with local government, and that sharing was totally based on their profitability. He said, for that reason, it was totally impossible to predict future profitability of the bank or branch. He said the counties had asked for simultaneous mergers of all banks under common ownership, so that a bank with a loss could not be left out of the merger, that would use up its net operating losses carried forward. He said that was good for the counties and cities, and

that was how the bill had been drafted. He said the amendments presented by the Independent Bankers Association, allowing multi-corporations on a phase in merger, destroyed the simultaneous merger concept, and would erode county and city taxes.

Closing by Sponsor: Representative Swift said he thought the opponents were making suppositions as to what would happen with this legislation, and said he felt the banks were capable of making their own decisions. He reminded everyone that the bill would require and provide for a review by the banking board. He said he felt Mr. Colbo had changed his position entirely, since the time he was head of the Department of Commerce. He said he also agreed with Mr. Buchanan that he would like to see open branch banking, however he reminded the committee that a majority of the Montana Bankers Association preferred limited branching. He stated that if the bill worked well, there may be cause to expand branch banking at a later time. He said he thought HB 151 was straight forward, and showed intensive review of all existing laws and case histories. He asked the committee's assistance in moving forward, within the banking industry.

#### DISPOSITION OF HOUSE BILL 151

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

#### HEARING ON HOUSE BILL 191

Presentation and Opening Statement by Sponsor:

Representative Stang, House District 52, said he felt HB 191 was a more realistic approach to serving the communities that had been discussed in the previous bill's testimony. He said he thought only two or three of those communities would have a branch bank, but a majority of them would be better served by HB 191. He said people living in rural Montana would like to have teller facilities in their banks. He stated, presently, small town store owners often ended up doing the check cashing services. He said he felt HB 191 economically approached branch banking more realistically. He cited HB 191 as better serving the needs of the consumer.

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

DATE 3/6/89

51st LEGISLATIVE SESSION 1989

| NAME                             | PRESENT | ABSENT | EXCUSED |
|----------------------------------|---------|--------|---------|
| <u>SENATOR DARRYL MEYER</u>      | ✓       |        |         |
| <u>SENATOR PAUL BOYLAN</u>       | ✓       |        |         |
| <u>SENATOR JERRY NOBLE</u>       | ✓       |        |         |
| <u>SENATOR BOB WILLIAMS</u>      | ✓       |        |         |
| <u>SENATOR TOM HAGER</u>         | ✓       |        |         |
| <u>SENATOR HARRY MC LANE</u>     | ✓       |        |         |
| <u>SENATOR CECIL WEEDING</u>     | ✓       |        |         |
| <u>SENATOR JOHN "J.D." LYNCH</u> | ✓       |        |         |
| <u>SENATOR GENE THAYER</u>       | ✓       |        |         |
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|                                  |         |        |         |

Each day attach to minutes.

INDEPENDENT BANKERS AND OTHERSTESTIFYING FOR HB-151BANK RESTRUCTURE ACT  
MONTANA BANKERS ASSOCIATION

Senate Business &amp; Industry Committee

10 a.m.

Mar. 6, 1989

Rep. Bernie Swift, Hamilton  
John Cadby, EVP, Montana Bankers Association, Helena  
Mark Safty, Attorney, Billings, and drafter of the bill  
Gary Carlson, CPA, Anderson-ZurMuehlen & Co., Helena  
Lynn Grobel, President of MBA and First National Bank, Glasgow  
Jim Bennett, Imm. Past President of MBA and President, First  
Citizens Bank, Billings  
John Witte, President, Traders State Bank, Poplar  
John D. Lawrence, President, Farmers State Bank, Worden  
Sam Noel, President, Citizens State Bank, Hamilton  
Sam Dasios, Businessman, Troy, MT  
Earl Lovick, Director, First National Bank, Libby  
Marty Olsson, VP, Ronan State Bank  
Bob Sizemore, President, Western Bank of Chinook  
Rod Smith, President, U.S. National Bank, Red Lodge  
Larry Moore, Cashier, Stockmens Bank, Cascade  
Bill Thorndal, President, First Security Bank of Laurel  
Carl Bear, President, InterWest Bank of Montana, Bozeman  
George Bennett, MBA Counsel, Helena  
Mike Grove, President, First National Bank, White Sul. Springs

TESTIFYING AGAINST HB-191

Mark Safty, Attorney, Billings  
Lynn Grobel, President of MBA and First National Bank, Glasgow  
Jim Bennett, Imm. Past President of MBA and President, First  
Citizens Bank, Billings  
John Witte, President, Traders State Bank, Poplar  
John D. Lawrence, President, Farmers State Bank, Worden  
Sam Noel, President, Citizens State Bank, Hamilton  
Sam Dasios, Businessman, Troy, MT  
Earl Lovick, Director, First National Bank, Libby  
Marty Olsson, VP, Ronan State Bank  
Bob Sizemore, President, Western Bank of Chinook  
Rod Smith, President, U.S. National Bank, Red Lodge  
Larry Moore, Cashier, Stockmens Bank, Cascade  
Bill Thorndal, President, First Security Bank of Laurel  
Carl Bear, President, InterWest Bank of Montana, Bozeman  
Mike Grove, President, First National Bank, White Sul. Springs

HB-151

EXHIBIT NO. 2DATE 3/6/89BILL NO. HB 151MONTANA BANKERS ASSOCIATION  
BANK RESTRUCTURE ACT

(As Amended and Passed House of Representatives)

The Bill allows:

1. All multi-banks (2 or more) to merge and consolidate. (Must be done simultaneously - all or none.)
2. In-state banks to branch in any town without a bank (Restricted to banks' county and adjoining counties).
3. In-state banks to buy a failed bank and make it a branch.
4. All banks to have one detached drive-up as far as 3000 feet beyond city limits.
5. All banks to place an Automated Teller (cash) Machine (ATM) anywhere in county and adjoining counties.
6. All branches must have local Community Advisory Boards.

Does not allow:

1. Interstate banking (an out of state bank cannot buy a bank(s) in Montana).
2. Branches in any town which has a bank (statewide denovo branching).
3. Out-of-state banks to acquire failed banks.
4. Out-of-State banks to branch in barren small towns.

Taxes:

Of the 6-3/4% state corporation income tax on banks, 80% would be distributed to counties with branches the same as has been done for the 35 savings and loan branches and the 1 bank branch for the past 10 years. Credit unions do not pay any state income tax.

Majority:

Approved by secret ballot 97 to 59, (1 abstaining bank) or a 62% majority of MBA members and a majority of all banks in Montana last October. Now supported by overwhelming majority of all banks.



MONTANA BANKERS ASSOCIATION'S  
RESPONSE TO MIB'S PROPOSED AMENDMENTS  
TO HB-151

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 3

DATE 3/6/89

BILL NO. HB151

*Cadby*

1. 1-1/2 years ago, MBA tried to have legal counsel compromise with MIB. They walked out of the negotiations.
2. 8 months ago, MBA's task force met with various MIB leaders. They refused to compromise.
3. 6 months ago MBA drafted a compromise bill. It was revised by members and finally approved by majority of banks.
4. One month ago HB-151 was further amended in House to address MIB's objections.
5. What's left, MIB wants to delay (mergers) or gut (branches).
6. In past month MIB has threatened MBA with loss of members, and an anti-trust lawsuit. Now they threaten to take this issue to the voters. MBA has not lost any members and will go to court or the voters if necessary. MBA will stand firm because that is the wish of the majority!
7. MIB has falsely accused MBA of representing only the big banks, decreasing tax revenue for local government and local control and purposely amending bill to allow de novo branching. HB-151 stifles growth of out-of-state banks, increases tax revenues, helps small banks become larger and stronger and guarantees community involvement. The typo error was caused by the Legislative Council.
8. How can MIB "vehemently oppose" mergers and at the same time accept 6 year phase in?
9. HB-151 was amended to require simultaneous mergers of banks under common ownership to prevent one or two banks from using up tax deductions (NOL Carry forward), and thereby raise tax revenue for local government. MIB now suggests allowing multiple corporations which would prevent simultaneous mergers, reduce tax revenues and subject HB-151 to opposition by the counties and cities.
10. Apparently MIB's proposed amendments are to either:
  - a. Break up compromise by singling out mergers and amending out full service branches so as to kill HB-151 in house; or
  - b. Pass both 151 & 191 but try to cap off and prevent mergers of major bank systems in 1991, 1993, or 1995 legislatures.

CONCLUSION:

- a. MIB refused to negotiate with MBA in the past, why now?
- b. Only a vocal minority of bankers are opposed to HB-151 today.
- c. 60% of the House supported HB-151 and we believe at least 2/3 of the Senate will support HB-151.
- d. Pass HB-151 and end the civil war.

Ex. #3  
3/6/89

HB 151 and HB 191: two bills in conflict:

They amend three code sections, one dealing with branch banks and two dealing with automated teller machines, in conflicting ways.

As to the other sections, the proponents of 191 (the Independent Banks) vehemently oppose the merger and consolidation provisions in 151, and the 151 proponents (the Bankers Association) doesn't care for the provisions in 191 controlling state savings and loan branching.

Can the Senate act in such a way as to take the most worthwhile provisions of each bill while removing the conflicting parts, and send two compatible bills to the Governor? Yes. In so doing, could the Senate put an end to the seemingly endless Bank Wars? Very possibly.

What if . . . the merger and consolidation authority in 151 were phased in over several years, with only small mergers allowed at first and gradually larger mergers allowed each year? The independent banks could accept a phase-in of six years. The minority of independents who support the MBA bill (151) would be allowed to merge early in this period because of their relatively small size. Some of the chain banks would be in no hurry to merge under 151 because they are still using up tax deductions for net operating losses incurred in past years.

Without such a compromise, the Independent Bankers Assn. will petition 151 to referendum. This creates two possibilities: either they get 55,000 signatures, enough to suspend 151 until the 1990 election, or they get 18,000 signatures, which would not suspend 151 but could repeal it at the 1990 election. Under the latter scenario, every bank considering a merger would hurry up and run it through in 1990, even if they gave up a lot of tax deductions.

What numbers are we talking about on a phased-in merger program? Percentages of the total bank resources in Montana, which is about \$7.2 billion. A phase-in could go in steps like this:

- 1990 -- mergers allowed up to 1% of total resources (\$ 72 million)
- 1991 -- mergers allowed up to 2% of total resources (\$144 million)
- 1992/93 -- mergers allowed up to 3% of total resources (\$206 million)
- 1994/95 -- mergers allowed up to 4% of total resources (\$288 million)
- 1996 -- no limit

What would this do for the Minnesota Twins or the other multi-bank holding companies such as the Montana Banc system or the Bank of Montana system? It would allow them to merge their banks in stages, putting a dozen banks first into four or five corporations, then two or three, and eventually into one.

Will this be negotiated by the two associations before the committee hearing? No. Feelings are running too high for the parties to sit down and negotiate anything right now.

ex. #3  
3/6/89

Where would this compromise come from, then? From the senators who find themselves in the middle of the road on this issue. The Business & Industry Committee reflects the full Senate, with about one-third of the senators aligned with each camp and one-third undecided or able to see merit to each side's arguments. If that middle third pushes this compromise, the two committed camps will follow them.

How do the middle-ground senators reassure themselves that this compromise makes sense? Phone home, as E.T. put it. Ask the local banker who wants merger if he could live with the phased-in program, particularly when the alternative is fighting a referendum.

What's the rest of the compromise? How do the conflicts come out of the two bills? Basically by amending 151 down to the one section authorizing merger and consolidation, deleting the rest of 151 and sending 191 through as is.

Subject

151 (MBA)

191 (MIB)

Merger & Consolidation

Allows any 2 or more banks under common ownership to merge into a single corporation if done all at once after Jan. 1, 1990. One bank would be main office, others would become branches.

No provision.

Opening new branches or extensions

Allows any state bank owned by in-state holding company (Twins excluded) to get charter from Banking Board to open a full-service branch in an unserved community, whether incorporated or not.

Allows any bank with at least two directors living in the county (Twins, too) to get a permit from Commerce Dept. to build an extended teller facility in an unserved community, whether incorporated or not.

\*only one branch charter per unserved community

\*unserved community can have more than one extended teller facility

\*unincorporated community is any collection of buildings that looks like a place

\*unincorporated community is a census enumerator district

\*can branch to furthest extent of any adjoining county

\*can open teller facility anywhere in home county, within 25-mile radius in adjoining counties

\*unserved community could adjoin an adequately served community

\*unserved community must be 10 miles or more away from served community

\*all services offered in main bank must be offered in branch

\*teller facility offers such services as bank can justify and Commerce Dept. by rule allows.

Relocating existing drive-ups

Moves limits from 1,000 ft. to 3,000 ft. in any community for drive-up extensions.

Moves limits to 3,000 ft. in cities over 20,000.

State thrifts' powers

No provision.

Amends law governing state thrifts to allow as much branching as state banks.

Automated teller machines

Allows financial institutions to place ATMs anywhere in home county or any adjoining county.

Allows financial institutions to place ATMs anywhere in home county or within 25-mile radius in adjoining counties.

\*eliminates minimum spacing requirement between one bank and the ATM of another bank

\*extends minimum spacing requirement to thrifts

HOLLAND & HART  
ATTORNEYS AT LAW  
MEMORANDUM

SENATE BUSINESS & ADMINISTRATION

EXHIBIT NO. 4

DATE 3/6/89

BILL NO. HB 151  
*Safty*

TO: Montana Bankers Association

FROM: HOLLAND & HART  
Mark D. Safty  
David R. Chisholm

DATE: March 2, 1989

RE: Limitation on branching by banks  
owned by out-of-state holding companies

---

You have requested a discussion of HB151, Section 5(4) (M.C.A. §32-1-372(4)) in relation to certain federal laws. As you know, HB151, Section 5(4) allows a bank to establish, maintain and operate a branch bank in certain circumstances. However, it prohibits a bank owned by an out-of-state holding company from establishing such branch banks.

Two federal statutes relate to HB151, Section 5(4). The Douglas Amendment (12 U.S.C. §1842(d)) prohibits an out-of-state holding company from acquiring an interest in a bank in Montana unless allowed by Montana law. The Douglas Amendment generally restricts interstate banking.

The McFadden Act (12 U.S.C. §36) provides that a national bank may have branch banks to the extent that "state banks" are allowed to have branch banks. As you know, national banks are created under federal law and subject to federal regulation while state banks are created under state law. The purpose of the McFadden Act is to provide competitive equality between national banks and state banks.

HB151, Section 5(4) falls between the Douglas Amendment and the McFadden Act. In falling between the two federal statutes, a question is created whether HB151, Section 5(4) violates one of the laws. In short, the argument raises the question whether the Douglas Amendment or the McFadden Act would control questions regarding the validity of HB151, Section 5(4).

Although that precise issue has not been addressed by the courts, one court would probably hold that the Douglas Amendment would prevail over the McFadden Act and support HB151, Section 5(4). In Independent Community Banker Assoc. of S.D., Inc. ("ICBA") v. Board of Governors of the Federal Reserve System, 820 F.2d 428 (D.C. Cir. 1987) ICBA challenged a South Dakota statute that allowed out-of-state holding companies to

Ex #4  
3/6/89

HOLLAND & HART  
ATTORNEYS AT LAW

Memorandum to Montana Bankers Association  
March 2, 1989  
Page 2

acquire banks in South Dakota, but restricted them to a single office at a non-competitive location. The ICBA argued that the South Dakota statute prevented a national bank from branching and therefore was invalid because it conflicted with the McFadden Act. The court, in rejecting ICBA's argument stated:

The McFadden Act permits national banks to branch in a state if and to the extent that the state law permits the establishment and operation of branches by state banks. South Dakota law imposes the same branching restrictions on state chartered banks acquired by out-of-state holding companies as it does on national banks similarly acquired. . . . Thus, the South Dakota statute maintains competitive equality between similarly situated state and national banks. The McFadden Act contemplates precisely this kind of equality. (emphasis supplied)

Although Independent Community Banker Assoc., Inc., is not direct controlling authority, it is persuasive that HB151's restriction on branching by a bank owned by an out-of-state holding company is a valid. That is, since HB151 restricts branching by both state and national banks owned by out-of-state holding companies on an equal basis it does not violate the McFadden Act under the holding in Independent Community Banker Assoc. Inc.

It should be noted that the identical South Dakota statute was held unconstitutional in a subsequent decision by another court. In Independent Community Bankers Assoc., Inc. v. Board of Governors of the Federal Reserve System, 838 F.2d 969 (8th Cir. 1988) the Eighth Circuit agreed in many respects with the District of Columbia Circuit decision discussed above. However, the Eighth Circuit did not agree that the statute fell within the state's powers. In declaring the statute unconstitutional, the court held that the South Dakota statute violated the Commerce Clause of the Federal Constitution because it discriminated based on geographical ownership. The Eighth Circuit did not discuss the McFadden Act.

The conflicting decisions have not been reconciled. Without additional authority or congressional action it is difficult, if not impossible, to predict the strength or validity of the arguments presented in the two South Dakota cases. However, currently no direct controlling authority indicates that HB151, Section 5(4) violates federal law and at least one federal circuit court decision supports its validity.



Junkermier • Clark  
Campanella • Stevens • P.C.

Certified Public Accountants

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 5

DATE 3/6/89

BILL NO. HB 151

Ward F. Junkermier, CPA  
George L. Campanella, CPA  
Stone E. Paulson, Jr., CPA  
Rick A. Frost, CPA  
Robert E. Nebel, CPA  
Joseph F. Shevlin, CPA

Ronald A. Taylor, CPA  
Kent A. Borglum, CPA  
Terry L. Alborn, CPA  
William J. Eidel, CPA  
Walter J. Kero, CPA

*Paulson*

January 30, 1989

Linda Stoll - Anderson  
Legislative Chair  
Montana Association of Counties  
1802 11th Ave.  
Helena, MT 59601

Dear Linda:

Your association has asked us to evaluate the arguments presented for and against HB 151 and to render an opinion as to the fiscal impact to Montana Counties of that bill. In light of your budget restraints, the analysis was to be brief.

We have reviewed the following documents:

- MIB Report on Senate Bill 198, dtd 3/11/87
- AZ response to above dtd 1/16/89
- MIB letter to House Committee dtd 1/13/89
- AZ response to above dtd 1/17/89
- MIB report on Tax Implications of Bank Merger dtd 1/25/89 (Including--Richard Tamblyn's letter dtd 1/24/89)
- State of Montana Fiscal note to HB 151
- George Bennett's ltr dtd 12/28/88
- MBA 20 questions/answers HB 151
- Testimony and analysis on HB 191
- Statement of Intent - HB 191, Roger Tippy
- MBA testimony to House Business Committee
- HB 151

We have not communicated with Gary Carlson or Richard Tamblyn directly. We do understand that Carlson is preparing a response to MIB's 1/25/89 report.

(A)

The fiscal impact to the counties as a whole of HB 151 cannot be determined. The impact is entirely dependent on the profitability of the banks and the extent of tax planning done within the rules and regulations by the banks. If the banks are profitable,

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Linda Stoll - Anderson  
January 30, 1989

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the counties as a whole will realize revenue. If there is no overall profit, the counties will see no revenue.

There are numbers in MIB's 1/25/89 report which are intended to estimate the loss of taxes under the proposed bill. Our review indicates that those numbers were obtained by comparing a computed tax (6 3/4% times book income) with a percentage of "applicable taxes" and an estimate of State Taxes. We feel this is not a valid conclusion for the following reasons:

- Sheshunoff reports net income which is a book income figure, not a taxable income figure.
- The report does not indicate any assumptions regarding the estimate for State Taxes.

(B)

Banks employ CPA's to assist with tax planning. HB 151 in its present form allows considerable latitude for tax planning in the area of the merger/consolidation section. In its present form, in the short term, there might be an overall decrease in revenue to the State and counties. Selective merger/consolidation would allow extensive tax planning by merging limited loss with profitable branches. The extent of this lost revenue cannot be predicted due to reasons already stated. The limitation of net operating loss carryforwards with a merger would affect this situation.

Opponents of this bill might well try to change the merger/consolidation language to be an "all or none" type situation.

(C)

The elimination of loss carryforwards with a merger is a key assumption to the revenue impact of this bill. If this interpretation were to change, the major tax drawback of a merger/consolidation would be removed. HB 151 would then most assuredly result in decreased revenue to the State and counties due to large net operating losses which would be available for carryover and could then be used to offset present profitable branches. Under present interpretation however, this is not possible in a merger/consolidation situation.

(D)

If HB 151 were to pass in its present form, if banks would choose to merge, and if the banks' profitability were to remain the same, then some counties which



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Linda Stoll - Anderson  
January 30, 1989

Page three

presently have profitable banks might well lose revenues because of the allocation of the tax on the deposit ratio method. At the same time, other counties would probably gain revenues. (A lot of if's and maybe's!)

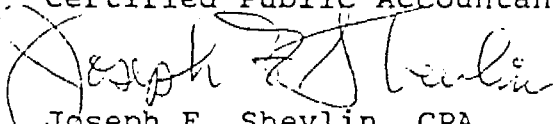
In conclusion:

- It is simply not possible to forecast the fiscal impact of HB 151.
- Merger/consolidation variables leave a lot of room for tax planning.
- Present DOR interpretation on NOL's and mergers is important.

If you desire further explanation or interpretation of this opinion, please do not hesitate to call.

Very truly yours,

JUNKERMIER, CLARK, CAMPANELLA, STEVENS P.C.  
Certified Public Accountants

  
Joseph F. Shevlin, CPA  
JFS/rml

Ex. # 5 3/6/81



# ANDERSON ZURMUEHLEN & CO., P.C.

Certified Public Accountants

Power Block Building • Second Floor

6th & Last Chance Gulch • P.O. Box 1147, Helena, MT 59624 • (406) 442-3540

## MEMORANDUM

To: Montana Bankers Association

From: Gary B. Carlson

Date: February 22, 1989

Subject: An Analysis of February 9, 1989, Letter from the Office of the  
Legislative Auditor to Representative William Glaser

You asked me to respond to the above-referenced letter prepared by Ms. Lorry Parriman, Audit Manager of the Office of the Legislative Auditor (OLA). Ms. Parriman's letter seeks to describe the tax implications of House Bill 151 (HB 151). After reviewing applicable laws, it is my judgment that the OLA analysis is fundamentally flawed. OLA significantly misinterprets certain key statutory provisions which govern the filing of Montana corporation license tax returns. Also, because of the faulty analysis and erroneous interpretations, OLA's letter to Representative Glaser prompts me to suggest that MBA should seek to correct the record in this matter. In the following paragraphs, I present the correct interpretations of law, which I believe will be supported by the Montana Department of Revenue with respect to the procedures followed in filing corporate income tax returns.

### Consolidated Tax Returns

The OLA letter is based on a misconception of the operation and applicability of Section 15-31-141(6)(a) and (b), MCA, which prohibits financial institutions from filing consolidated returns. This prohibition applies to affiliated corporations, such as we have with affiliated banks prior to the enactment of HB 151. It does not, however, govern merged corporations which operate as a single corporation.

Two or more non-bank corporations which are affiliated may file a single consolidated corporate license tax return, covering both corporations, provided certain conditions are met. However, the statute specifically prohibits two or more bank corporations (and/or a non-financial affiliated corporation) from filing consolidated returns.

Despite OLA's analysis of Section 15-31-141, MCA, none of the statutory provisions apply to banks which would merge pursuant to HB 151. The new merger law created by HB 151 would allow the creation of a single bank corporation, to include a main bank and one or more branch banks. The resulting tax (and operating) entity would be a single corporation--not a group of two or more corporations filing a consolidated tax return. In other words, financial institutions merged pursuant to HB 151 will result in a single corporation filing a single corporate return, not multiple corporations filing a consolidated return.

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While not applicable to banks merged pursuant to HB 151, Section 15-31-141(6), MCA, does (and continues to) apply to financial institutions and/or related holding companies. Neither corporations controlling banks (such as a one bank holding company or multi bank holding companies) nor separate corporations operating banks are allowed to file consolidated returns, nor would they be if HB 151 becomes the controlling law. Two or more separate bank corporations are not allowed to file consolidated tax returns. This is the operation of the current statute, and would remain so if HB 151 becomes law.

#### Tax Returns for Main Bank and Branches

OLA expresses the "belief" based on current law that even if two or more banks consolidated or merged into single bank, the pre-existing banks should file separate tax returns and thereby report separate net income for each of the operating locations. This interpretation of existing law is fundamentally incorrect. According to Montana law, the tax (and operating) entity created by a merger is a single corporation. A.R.M. 42.23.311 provides the filing requirements upon merger or consolidation. HB 151 tracks the existing corporate law of Montana, whereby a single bank corporation will be allowed to operate at more than one banking location (i.e., a main bank and branch banks). This corporate structure is not allowed for commercial banks under current statutes. If HB 151 were enacted, and banks did merge pursuant to the new statute, the resulting tax (and operating) entity that survives, as the main banking house, must file a single corporate tax return covering all of the banking locations, including the main bank, the branch bank, any detached facilities, satellite terminals, and the like. The resulting merged corporation will have no other option, nor should it, based on the experience of the Montana savings and loan industry.

Like banks, Montana savings and loan associations are financial institutions. When S & L's merge, which they can do under existing law, the surviving financial entity files a single corporate tax return. Those S & L corporations which do operate branches (and currently 11 S & L corporations in Montana do operate 35 branches), have been filing single corporate tax returns since 1979, when they became subject to the corporation license tax. Each of the operating S & L corporate entities have filed single tax returns for the past ten years, just as banks will do if they merge following enactment of HB 151.

Significantly, there is a parallel with S & L's among Montana's banks, although it is a historical artifact. The Norwest Bank of Anaconda-Butte is a merged bank which files a single corporate tax return for both of its banking locations in two different counties. These two banking locations are operated as a single bank corporation, because the Norwest Anaconda-Butte bank merger occurred prior to the enactment, twenty years ago, of a prohibition against bank branching through merger.

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The OLA analysis fails to recognize the applicability of the Rules of the Montana Department of Revenue governing the distribution of taxes paid by merged financial institutions. A.R.M. 42.24.212 provides that corporation license taxes paid by merged financial institutions in Montana, such as Norwest Bank of Anaconda-Butte, are allocated among counties based on each bank's respective deposits at the end of each calendar year.

The OLA analysis also fails to recognize the extent to which Montana's existing tax and corporate law governs the filing of tax returns for--and taxes paid by--merged corporations or financial institutions. Because these laws currently exist, HB 151 does not contain any provisions which change, alter, or add to any of the statutes covering filing, paying, or calculating corporation license tax returns. Indeed, HB 151 contains no tax provisions, whatsoever.

Near the end of Ms. Parriman's letter, OLA poses the following question: "Could the branch bank be considered a bank that must file a return and pay taxes and fees separately?" OLA responds to this query by suggesting that the answer is not addressed in HB 151 and implies that an amendment would be an appropriate step to take to address the alleged problem. Once again, the OLA analysis fails to refer to the applicable Montana law governing corporate merger and taxation thereof. Had OLA staff made such a reference, I believe that they would have concluded that the current reporting practices, based on existing law and accepted by the Montana Department of Revenue, require that a single tax return be filed for a tax (and operating) entity surviving a corporate merger.

One final point about the OLA analysis. When two or more corporations merge, they become one corporation. All income and expenses for this corporation are reported in a single tax return. Transfers of income and expenses from one banking location to another does not occur because all income and all expenses of banking locations of a merged entity are filed together as a single corporation. Thus, there is no potential for cost shifting between banking locations to reduce tax burdens within a merged entity operating branches, as suggested by OLA.

#### Conclusion

The conclusions and recommendations made by OLA are erroneous and should not be relied upon. The statements made by OLA are frequently inaccurate and, in nearly every circumstance, misconstrue the manner in which corporate license tax returns would be filed following merger. In short, the OLA representations misinterpret both existing statutes and proposed statutes.

HB 151 suffers from no defects in the area of taxes. Put another way, HB 151, appropriately, conforms the taxation of merged banks (and branches) to the taxation of other merged corporations in Montana.

Finally, in response to your inquiry as to the necessity of adding amendments to HB 151, I have concluded that none is needed in the tax area.

STATE OF MONTANA

Office of the Legislative Auditor

STATE CAPITOL  
HELENA, MONTANA 59620  
406/444-3122

Ex. #5  
3/6/89

DEPUTY LEGISLATIVE AUDITORS:

MARY BRYSON  
Operations and EDP Audit

JAMES GILLET  
Financial-Compliance Audit

JIM PELLEGRINI  
Performance Audit

LEGISLATIVE AUDITOR:  
SCOTT A. SEACAT

LEGAL COUNSEL:  
JOHN W. NORTHEY

February 9, 1989

Representative William Glaser  
House of Representatives  
Capitol Station  
Helena, MT 59620

Dear Representative Glaser:

At your request we reviewed House Bill 151 relative to any tax implications. The following information outlines some items to consider in this area.

Every bank organized under the laws of the state of Montana, of any other state, or of the United States and every savings and loan association organized under the laws of this state or of the United States is subject to the Montana corporation license tax. Section 15-31-101, MCA, requires corporations to pay annually a license fee (tax) equal to a percentage of its total net income for the preceding taxable year, or \$50, whichever is greater. Currently the percentage is  $6 \frac{3}{4}\%$  of net income. Section 15-31-113, MCA, defines net income as the gross income of the corporation less deductions set forth in section 15-31-114, MCA. This section states that in the case of a merger or consolidation of corporations, the surviving or new corporate entity shall not be allowed a deduction for net operating losses sustained by the merged or consolidated corporation prior to the date of consolidation.

Section 15-31-701, MCA, allows for the collection of the corporation license tax from banks or savings and loan associations. This tax is distributed as follows:

- 1) 80% to the various taxing jurisdictions within the county in which the bank or savings and loan association is located,
- 2) 12.8% to the state General Fund,
- 3) 5% for state equalization aid to the public schools, and;
- 4) 2.2% for long-range building program bonds.

The 80% is allocated to each taxing jurisdiction in the proportion that its mill levy for that fiscal year bears to the total mill levy of the taxing authorities of the district in which the bank or savings and loan association is located. If a tax return filed by a bank or savings and loan association involves branches or offices in more than one taxing jurisdiction, the Department of Revenue shall provide a method by rule for equitable distribution among those taxing jurisdictions.

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HB 151 section 4, part 4, allows a branch bank upon consolidation or merger. Section 15-31-141(6), MCA, states:

"(a) A majority of the corporation license tax collected from financial institutions is paid to local government areas in which each financial institution is located. However, consolidated returns for financial institutions do not reflect the true tax attributable to each local government. In addition, consolidated returns would permit financial institutions to offset income against losses of nonfinancial institutions, thereby distorting the true income of each financial organization.

(b) in accordance with subsection (6)(a), financial institutions are prohibited from filing consolidated returns under this section."

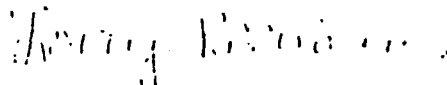
The issue of filing returns for consolidated corporations is not addressed in HB 151. Based on current law, even if two or more banks consolidated or merged into one bank, we believe separate returns reporting net income would need to be filed.

Another item to consider is the definition within the laws relating to banks. Would a branch bank be considered part of the main banking house and therefore, taxes and fees would only be assessed on the main banking house or could the branch bank be considered a bank that must file a return and pay taxes and fees separately? The answer to this question is not clear and may need to be addressed in HB 151.

In summary, by allowing branch banks, the tax distribution to the local taxing jurisdictions may shift. This would depend on where branch banks are established, the location of the main banking house, and net income prior to and after any mergers or consolidations. There is also a potential for cost shifting between the banks to reduce tax burdens. For example, one bank with significant losses could transfer loans, acquisition costs, and/or allocated expenses to other banks to reduce their profits, and thus reduce the consolidated bank's total tax liability. This could occur now if several banks are under one corporation.

If you have any questions on this information or if we can be of further assistance please call.

Sincerely,



Lorry Parriman  
Audit Manager

SENATE BUSINESS & INDUSTRY COMMITTEE  
HELENA, MT

MARCH 6, 1989  
SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 6  
DATE 3/6/89  
BILL NO. HB 151

*Grobel*

MR CHAIRMAN & MEMBERS OF THE COMMITTEE:

MY NAME IS LYNN GROBEL. I AM THE 1988-89 PRESIDENT OF THE MONTANA BANKERS ASSOCIATION.

I AM ALSO PRESIDENT AND PART OWNER OF THE FIRST NATIONAL BANK OF GLASGOW AND DIRECTOR AND PART OWNER OF THE FIRST NATIONAL BANK OF HINSDALE. I AM AN INDEPENDENT BANKER AND HAVE BEEN FOR THIRTY YEARS.

I AM HERE THIS MORNING TO SPEAK IN FAVOR OF HOUSE BILL 151. A BANK RESTRUCTURE ACT. THROUGH MAILINGS TO YOU WE HAVE OUTLINED THAT THE BILL RECEIVED COMPLETE ACCEPTANCE BY 62% OF THE 157 MEMBERS OF THE MONTANA BANKERS ASSOCIATION. FOR MANY SESSIONS OF THE LEGISLATURE THE MBA HAS NOT TAKEN A POSITION ON THIS SUBJECT: HOWEVER, LAST FALL THE MBA BOARD VOTED TO PRESENT THIS BILL TO THE LEGISLATURE AND TAKE THIS POSITION BECAUSE THEY FELT THERE IS A NEED TO MODERNIZE THE BANKING STRUCTURE IN MONTANA.

I WILL ATTEMPT TO EMPHASIS TWO PRINCIPAL POINTS THIS MORNING - ONE - THE FACT THAT THE HEART OF THIS BILL IS THE MERGER/CONSOLIDATION SECTION AND BRANCHING. SECOND - THE OVERWHELMING SUPPORT THIS BILL HAS RECEIVED BY BANKERS IN MONTANA.

MERGER/CONSOLIDATION WILL ALLOW MANY SMALL BANKS TO MERGE, BECOME A FULL SERVICE BRANCH AND OPERATE MUCH MORE EFFICIENTLY AND AS A RESULT PASS SOME OF THE SAVINGS TO THE CONSUMER THROUGH THE ECONOMIES REALIZED. THIS BILL WILL ALLOW MORE FULL SERVICE BANKING OFFICES IN MONTANA AND MORE COMPETITION IN BANKING. SOUTH DAKOTA WHICH IS ABOUT OUR SIZE IN POPULATION IS A BRANCH BANKING STATE AND THEY HAVE ALMOST TWICE AS MANY BANKING OFFICES AS WE HAVE IN MONTANA.

A LIST I HAVE HERE IS OF 15 COMMUNITIES THAT PRESENTLY DO NOT HAVE A BANK BUT COULD BE SERVED BY A FULL SERVICE BRANCH BANK WITHIN SEVERAL YEARS AFTER THE PASSAGE OF

*about*

Ex. #6 3/6/89

THIS OTHER LIST I AM HOLDING IS A LIST OF 5 BANKS IN MONTANA WHICH COULD BECAUSE OF THEIR HIGH COST OF OPERATION BE LIQUIDATED IN SEVERAL YEARS WITHOUT THE PASSAGE OF HOUSE BILL 151.

IN SOME INSTANCES, SMALL BANKS IN MONTANA NEED TO HAVE THE OPPORTUNITY TO MERGE AND BECOME FULL SERVICE BRANCHES IF THEY ARE TO SURVIVE IN THIS BANKING ENVIRONMENT. IT IS EVIDENT TO ME AND I HOPE TO YOU THIS BILL WOULD BE GOOD FOR THE CONSUMER, GOOD FOR THE ECONOMY OF MONTANA AND GOOD AND MUCH NEEDED BY THE BANKING COMMUNITY.

THERE HAS BEEN SOME DISCUSSION OF EMPLOYMENT IN BRANCH BANKS VERSUS UNIT BANKS. IT IS MY BELIEF THAT A BRANCH BANK WILL EMPLOY AS MANY PEOPLE AS NECESSARY TO SATISFY THE NEEDS OF THE CONSUMER. IF THERE IS A STRONG LOAN DEMAND IN A CERTAIN BRANCH BANK THAT BRANCH SHOULD BE STAFFED BY ENOUGH LOAN OFFICERS TO TAKE CARE OF THAT LOAN DEMAND.

A BANK IN SOMEWAYS IS LIKE A GROCERY STORE, RESTAURANT, HOSPITAL OR ANY OF A NUMBER OF OTHER KINDS OF BUSINESSES. IN OTHER WORDS, A BRANCH BANK PROPERLY RUN WILL HIRE AND STAFF AS MANY QUALIFIED PEOPLE THAT CUSTOMER NEEDS DICTATE.

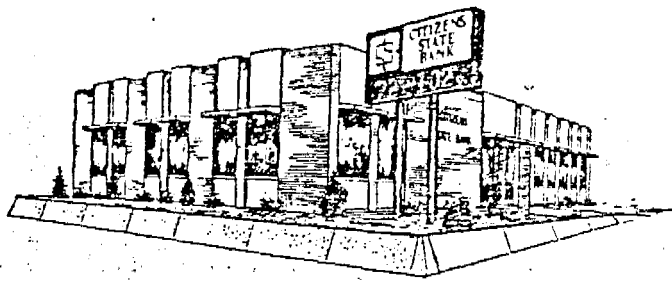
I MENTIONED OVERWHELMING SUPPORT BY THE BANKERS OF MONTANA. I AM TOLD THAT IN THIS POINT IN TIME MORE THAN 125 OF THE 168 BANKS IN MONTANA ARE IN FAVOR OF THIS LEGISLATION. 75 OF THE 100 SMALLEST BANKS IN MONTANA ARE NOT OPPOSED TO THIS LEGISLATION WHICH DISCOUNTS THE THEORY OF SOME THAT THIS <sup>Bill</sup> ~~SMALL~~ IS FAVORING OR FOR THE BENEFIT OF THE LARGER BANKS OF THE STATE.

THIS BILL IS COMPROMISE LEGISLATION. THE MBA IS NOT INTERESTED IN FURTHER COMPROMISE WITH THE MIBA WHICH IS ONLY INTENDED TO SLOW DOWN OR HALT THE PROCESS AND ONCE AGAIN PUT OFF THE NEEDED MODERNIZATION OF OUR BANKING SYSTEM.

AS MENTIONED BEFORE I BELIEVE THIS IS GOOD, PROGRESSIVE AND TIMELY LEGISLATION AND I URGE ALL COMMITTEE MEMBERS TO VOTE IN FAVOR OF HOUSE BILL 151.

THANK YOU.





SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 7  
DATE STATE BANK FULL SERVICE 3/6/87  
BILL NO. HB 151  
Since 1916 SCOBEE, MONTANA 59263  
Witte

Mr. Chairman, members of the committee:

My name is John Witte, President of the Citizens State Bank of Scobey, Traders State Bank of Poplar, and N. E. Montana Bank Shares, a multi-bank holding Co. that owns those two banks.

I support H.B. 151. I may never use it, but a few years ago when we had been declared a disaster County in Daniels county for 8 consecutive years, and we lost two million dollars, if that drain on capital would have continued I would have wanted to merge so that we could have maintained a banking office in Scobey, rather than being gobbled up by a Credit union such as happened in Fromberg.

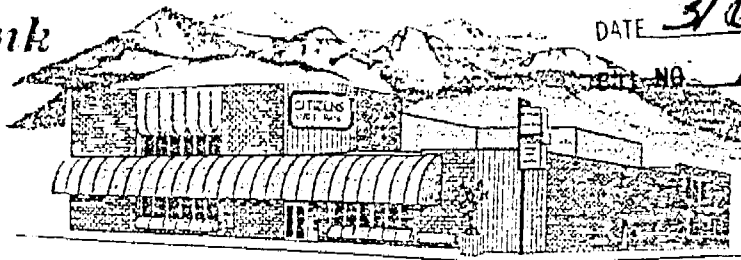
This year our two banks totalling a little over 50 million dollars in deposits will pay approximately \$58,000.00 in State Income taxes. <sup>80%</sup> ~~50%~~ of that goes back to support our counties and schools. If Fromberg could have been branched, paying taxes on the same basis as our two banks, they should have paid approximately \$10,000.00 in State Income tax. What will you get out of it now? Nothing--because Credit Unions pay no State or Federal income tax. Yet they can go where they want to go, do what they want to do, and you have no control over growing them. They are the fastest financial industry in the Nation and their share of the market in Montana has grown 40% since 1984, while we are tied down by archaic and outdated regulations.

Long before the Farm Credit System, S&L's and Credit Unions, banks have always been the financial backbone of this Nation. 48 other States have recognized the uneven playing field the banks play on, and I think its about time we get into the main stream of life and become the 49th state to give the banks a little more freedom, and to help Montana move ahead. I would hope that HB 151 comes out

# Citizens State Bank

DRAWER 393 CORNER MAIN & 1ST  
HAMILTON, MONTANA 59840  
PHONE: 406-363-3551

SAMUEL R. NOEL  
PRESIDENT AND CHIEF EXECUTIVE OFFICER



SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 8

DATE 3/6/89

BILL NO. HB 151

Noel

March 3, 1989

To the Honorable Gene Thayer, Chairman  
Committee Members  
Senate Business & Industry Committee

Gentlemen:

The Citizens State Bank of Hamilton was founded in 1905. I am the President and a director. Its Chairman is Mr. Vernon C. Hollingsworth who has owned it since 1938, and was President until 1988, a span of 50 years. The bank has \$56,000,000.00 in total assets, and derives its business entirely from Ravalli County. It is an independent community bank.

The bank was formerly a member of the Montana Independent Bankers Association. Mr. Hollingsworth elected to cancel the banks membership in 1987, because this group no longer represented the interests of Mr. Hollingsworth or the Bank. The Bank is a member of the Montana Bankers Association and strongly endorses HB 151.

We feel that banking structure is too restrictive in Montana. Current restrictions are designed to help protect the "exclusive" bank franchises owned by a very few short-sighted bankers. They seem to fear the banking structure changes that have occurred all over this nation and in the states surrounding Montana. You must ask your self, why? What are they afraid of? Why is merger and consolidation harmful? Will the Montana Bankers Association House Bill 151 benefit the consumer? Why do these Montana Independent Bankers wish to limit services to the consumer?

We at Citizens State Bank, and a majority the members of the Montana Bankers Association, feel that the members of your committee and the full Senate know the answers to these questions and will move to approve HB 151 and kill HB 191.

We applaud the management, directors and members of the Montana Bankers Association for finally taking a stand. It should be apparent, that a larger number of banks support this legislation (HB 151) than the group who oppose it and the number of independent banks supporting HB 191 is dwindling. Montana needs to progress into the competitive banking structure permitted by other states. Everyone will benefit--consumers, bank owners and the State of Montana. There is no honor in being the last State to change. Take off the shackles that currently inhibit banking growth and competition against savings and loans, credit unions and investment firms, all of whom may branch wherever they please.

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March 3, 1989

The Honorable Gene Thayer, Chairman

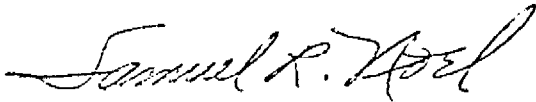
Page 2

Think of the consumers in "barren towns" such as Darby, Wisdom, Florence, Corvallis, Troy, Arlee, Pablo, Somers and Fromberg, to name a few. It is far less expensive to establish a full service branch than to separately charter a bank in these small communities and most would not be able to raise \$1.5 to \$2 million in capital for a new charter.

And finally---Please observe the number of small, independent banks who support this bill, here today. This is not a big bank bill---it is a community bank bill, which will benefit all banks---introduced by a member of the House from Ravalli County.

Thank you for your support. I would be willing to answer any questions you may have.

Sincerely,



Samuel R. Noel  
President &  
Chief Executive Officer

SRN:rmg

Montana Independent Bankers ) Testimony Against  
Roger Tippy, Lobbyist & Counsel ) House Bill 151

The bill is very vague about what constitutes an unincorporated "city." It is an "aggregation of inhabitants and structures sufficient to constitute a distinct place," and its limits are "boundaries that under the circumstances define the city as a distinct place."

Looking around Great Falls, outside the city's limits, Black Eagle is no doubt a distinct place. What about the Lower Sun River area or the lower Fox Farm Road neighborhood? Around Billings, Lockwood is a distinct place -- is Blue Creek, Briarwood, or the unincorporated portion of Moon Valley? If we can name these areas and everyone knows where they are, what else do they need to be distinct places? Not a post office, not a census enumerator district, not a voting precinct or a school district.

The bill makes it as hard to justify opening a branch bank as it is to charter a new bank. In sec. 3, the bank wanting to branch must convince the state banking board by "a pervasive showing that there is a reasonable public necessity and demand for a . . . branch bank at the proposed location." Why it is that a type of banking facility which can be closed with no hearings or permission should be that hard to open is curious.

The bill is even more curious where it gets specific on where a new branch bank can be located. It has to be in an unserved city, which as already noted is vaguely defined as a collection of buildings, when unincorporated. Then this unserved "city" must be in the home county or an adjoining county in which the main banking house "of" the branch bank is located. This is a contradiction in that a main banking house, which the bill defined earlier, cannot be a branch bank.

Reading on, the committee should note that an unserved or "barren" community is described at page 10, line 14: one "in which no bank or branch bank is located at the time the branch bank is to be established." This creates a type of exclusive franchise grant to the bank which is able to get the first branch into an unserved "city" -- if Bank A gets the branch in Black Eagle or Lockwood or wherever, the other banks in town are frozen out in terms of putting branches there. These applications will unleash fiercely contested hearings before the State Banking Board and will enable many lawyers to put their children through college and law school.

The debate in the House committee indicated an understanding that the full service requirement on branches-by-merger (see page 7, line 17) also applies to new branches. This will impact the bottom line on whether branches in small remote communities can make a profit.

## THE WALL STREET JOURNAL MONDAY, OCTOBER 5, 1987

MIDWEST EDITION

## Country Blues

Deregulation Raises  
Prices, Cuts Services  
In Many Rural AreasPhone Bill of Mrs. McGinnis  
Is Up 300% in Nebraska;  
A Sick Man Misses the Bus

## Small-Town Banks Play Safe

By BILL RICHARDS

Staff Reporter of The Wall Street Journal  
SCOTTSBLUFF, Neb. — As Scottsbluff's mayor, David Overman, recalls that unpleasant morning several years back, snow was blowing out of a leaden sky when his eastbound Frontier Commuter Airlines flight set down at North Platte, Neb.

As soon as the door popped open, the crew hastily departed, leaving the plane sitting on the tarmac with Mr. Overman and 20 other bewildered passengers waiting to fly on across the state. The pilot returned to announce that the airline was jetting its unprofitable route across Nebraska. He gave the passengers a choice: Fly 230 miles in the opposite direction to Frontier's home base in Denver or stay put in North Platte.

Mr. Overman calls it "a pretty dramatic lesson in deregulation."

For big-city dwellers, deregulation has mostly been a boon. Under freedom from federal rules has often led to cutthroat competition in everything from interest rates to intercity flights and telephone calls.

## Different in the Panhandle

But in sparsely populated places like the Nebraska Panhandle, deregulation hurts. Although some 700 banks have branches in New York City and about 40 airlines fly in and out of Chicago, a rural area frequently has only a single supplier of such vital services.

So as regulatory control fades, prices are climbing in these areas—and service is dwindling. From buses to buses to telephones, deregulation is driving home a

hard economic lesson: Big government may not fit with the rural self-image of rugged individualism, but no government is sometimes worse.

"Rural people place great value on the idea of self-sufficiency, but they operate in a framework that is anything but independent," says George W. Rucker, research director for Rura America, a Washington D.C. public-interest group. Mr. Rucker and others say that federal regulation has long amounted to a subsidy of low-price rural power, transportation, telephone and other services, acting as a form of social engineering to build and maintain rural populations. "In a sense," says Calvin Beale, a U.S. Agriculture Department population expert, "rural development was propped up by federal regulation."

## Speeding Depopulation?

Deregulation is underestimating the extent of those hidden rural subsidies as it wipes them out. Mr. Beale and others worry that the process is also hastening the depopulation of some of the same communities that regulation once helped build.

"If the present deregulation trend continues," warns Sen. Larry Pressler, Republican of South Dakota, a longtime opponent of the trend, "small cities and towns could end up as remnants of the past."

Since the beginning of the 1960s, nearly half the nation's nonmetropolitan counties have lost population, reversing the widely publicized back-to-the-land trend of the previous decade. Agriculture's problems, farm consolidations and the aging of the rural population have all contributed. "But when you deregulate," says William S. Duncan, head of the Mountain Association for Community Economic Development in Berea, Ky., "you're making a social decision to become a nation of big cities."

On the high plains of western Nebraska's Panhandle, a region that is as large as all of lower New England but has a population of less than 100,000, deregulation's impact isn't like that of the dust storms and droughts that sent farmers stampeding in years past. Instead, it is more like erosion, making life a bit more expensive here and a bit less palatable there.

## The Telephone

At her desk in Crawford, Neb.'s tiny city hall, Mary McGinnis, 65, holds forth about her telephone bill from Northwestern Bell Telephone Co. "Can you believe?"

Crawford's white-haired water commissioner tells a handful of loungers. "The bill on that old el-cheapo dial telephone of mine. It went up nearly 300% since 1984"—from \$7 a month to \$27.

In the past, the Federal Communications Commission required telephone companies to charge urban and rural customers the same for service, in effect subsidizing rural service, which is far more expensive because there are far fewer customers to cover fixed costs. But since deregulation, phone companies are passing on more of the actual service cost to their customers, and rural phone bills are soaring.

By itself, a rising phone bill isn't likely to send anyone packing for the city. Still, Mrs. McGinnis says she sometimes finds herself thinking the unthinkable these days—contemplating a move to a bigger place, like Rapid City, S.D. "It would be nice," she says, "living close to where things are cheaper."

## The Bus

William Shay is one of a contingent of disabled veterans around Scottsbluff who travel regularly to Veterans Administration hospitals for treatment. He suffers from edema. Twice a month, the 70-year-old former farm laborer leaves his rented room so that doctors can drain off the fluid that balloons his weight to 290 pounds.

Mr. Shay, who has had two heart attacks, used to take the bus to the veterans' hospital in Hot Springs, S.D., some 150 miles north of Scottsbluff. Then came deregulation and the bus route was eventually dropped. Now he waits for the local veterans' office to find him rides and doesn't always get to the hospital on schedule. "That bus," he says, "was the difference between life and death for me." Now his life depends on a more haphazard arrangement.

Since bus deregulation began in 1982, more than 3,000 small towns and cities have lost bus service, according to the Department of Transportation. Star Bus Lines, the Panhandle's last remaining local carrier, still has travel posters for Hawaii and Australia on the walls of its Scottsbluff terminal. But a bus traveler headed for one of those exotic destinations must first take Star's 6:30 a.m. bus 40 miles south to Kimball, Neb., then catch the westbound Greyhound for Cheyenne, then wait for the bus south to Denver. The 250-mile trip takes a day and a night. Few

people bother.

Darlene Ruth, Star's manager, says the bus line is thinking about ending its scheduled runs and just offering charter service. Under deregulation, big carriers like Greyhound Lines Inc. juggle schedules and routes so fast, Mrs. Ruth says, that feeder operations like Star can't keep up. "You get the impression they don't care about us little people in between the big cities," she says.

## Trucks

Richard Holliday, a blunt-spoken former trucker whose Gehring, Neb.-based Nebraska Transport Co. is the region's biggest truck line, says that since deregulation he has routinely slashed rates for customers on highly competitive interstate-highway routes. But customers in communities off the beaten path, where there is no truck competition, have to pay more than their urban counterparts. Mr. Holliday offers a gloomy prediction for some of the industry's customers: "The mom-and-pop store in some small, out-of-the-way town—they've had it."

In a corner booth at the 77 Lounge in Chadron, Neb., far from any interstate, owner Evva Gore whips out a freight bill to show a visitor just how fast her trucking costs are climbing. It costs \$12.55 to have three cases of liquor hauled 400 miles across the state from Omaha, up from \$12.78 last year.

"When I saw that, I said 'bull-leathers,'" says Mrs. Gore, a 27-year veteran of the bar business. The 77 Lounge is up for sale—not because of deregulation—and Mrs. Gore says she is looking forward to moving someplace warmer. Meanwhile, she confides that she has worked out a way to beat the price increase: "I drive my motor home to Omaha and tell them to fill up the bathtub with cases of booze."

Not everyone in Chadron's business community can improvise like Mrs. Gore. James Aspdren, manager of Henkens Implement Co., wends his way between bins stuffed with spare farm-machinery parts and stops in front of a 16-foot sickle bar. Mr. Aspdren says the device costs only \$150, but he has to tack on \$50 more to cover trucking charges. When a freak hailstorm caused \$2 million of damage to the town last summer, Chadron residents discovered they could find replacements for their shattered storm windows for \$20 less in towns with better truck service.

## The Bank

When Robert McCulley turned up at the Holiday Restaurant in Kimball, Neb., one evening this past July, more than 50 people crowded into the back room to meet him. Mr. McCulley is no celebrity; he is a broker for E.F. Hutton & Co. And like a growing number of bankers, brokers and other money managers these days, he spends much time in small towns and cities around the Panhandle trying to persuade people to put their money elsewhere than the local bank.

Deregulation means more business for Mr. McCulley and his fellow circuit riders.

But it is sapping life from small-town banks and from the communities that rely on them. Under deregulation, many rural banks are forced to pay higher interest to compete with outsiders for deposits. Deregulation has also cleared the way for big outside banks to steal away borrowers who once automatically would have gone to their local bank for cash.

In a report on changes in rural America last year, researchers at the Kansas City Federal Reserve Bank weighed the pros and cons of bank deregulation and concluded, "On balance, economic activity in many rural communities probably has been negatively affected by higher [loan] interest rates from deregulation."

Michael Nelson, president of Kimball's First State Bank, estimates that 25% of the money the town's 3,500 residents might have deposited in his bank in the past now goes to brokerage houses and other outsiders. Squeezed for profits, small-town banks are shying away from putting money into uncertain local business ventures. "These days," says Lewis Mehling, vice chairman of American National Bank in Sidney, Neb., "you're a little less inclined to stick your neck out to help some young person get started."

Mr. Mehling's bank recently turned down applicants seeking business loans to launch a restaurant and a retail store in Sidney. There isn't much likelihood the businesses will get help elsewhere. "E.F. Hutton," Kimball's Mr. Nelson points out dryly, "doesn't finance gas stations and clothing stores."

## The Plane

At his insurance agency in Scottsbluff, Mayor Overman keeps a plastic model of a passenger jet behind his desk. It is a talis-

man of sorts, since Scottsbluff has managed to hold on to some air service since deregulation. But at a price. There are no Supersavers or fare wars. Since 1984, four airlines have come and gone, including the one that stranded Mr. Overman in North Platte. The 150-mile flight to Denver now costs \$75, up from \$49 three years ago.

A 1982 federal study showed that following deregulation, the average cost of flying out of a small town had climbed by 16% while the cost of flying out of big cities had declined by 37%. A federal aviation expert says those percentages are "still in the ballpark today."

Mr. Overman isn't complaining about the price. He has been to Washington twice recently pleading for federal help to keep Scottsbluff's air connection alive. The city is 400 miles from Lincoln and Omaha, Nebraska's state capital and its financial center. Without air service, the mayor says, "we might as well be in another country."

Other Panhandle communities are even more worried. Since deregulation, virtually all the region's air service depends on the federal government's Essential Air Service program, which provides subsidies to commuter lines servicing otherwise unprofitable rural areas. The program is scheduled to end next year.

Panhandle officials say that losing air service would be deregulation's cruellest blow. Without it, a distant traveler who wanted to get to Chadron would have to fly to Rapid City, the nearest city with scheduled air service, hire a car and drive 154 miles to reach Chadron. "It would have a drastic effect on our economic development effort," says Carl Dierks, Chadron's city manager.

Among other problems, Mr. Dierks points out, there would be no air link for nearly 2,000 students who attend Chadron State College, the community's economic anchor. Mr. Dierks is heading an effort to broaden Chadron's agriculture-based economy. But he says one of the first things prospective employers ask about is air service.

"Disaster might be too strong a word to describe the effect of losing our air service," Mr. Dierks says. "But it would certainly make Chadron a less desirable place to live."

Just in case you missed it...

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 11

DATE 3/6/87

BILL NO. HB 151

## Branch Bullying: Big Texas Banks Drain Deposits From Small-Town Units, Cutting Off Locals' Credit

By LEONARD M. APCAR  
And BUCK BROWN

Staff Reporters of THE WALL STREET JOURNAL

LUFKIN, Texas—When the big Dallas and Houston banks moved into Lufkin in the 1970s, they promised to transform this dusty sawmill town into an East Texas money center.

Suddenly, multimillion-dollar credit lines were available to local companies. Sophisticated trust services were dangled before rich lumber and oil families. Dollars flowed from automated teller machines. Drive-up banks engulfed two square blocks.

With little Lufkin finally enjoying the benefits of big-city banking, people celebrated. The grand opening of one bank's four-story building was something: hot-air balloons, prizes and an appearance by gold-medal gymnast Mary Lou Retton. Promised Prosperity Lost

But today, the "new age" promised by the arrival in Lufkin of Dallas-based First RepublicBank Corp. and Houston-based First City Bancorp. of Texas has sunk into a dark age.

Some Lufkin banks—and hundreds of little ones like them that were absorbed by big Texas banking chains in recent years—now are caught in a mess not of their own making. As loan losses at money-center banks in Dallas and Houston mount, banks all across the state are under strict orders to shovel hard-earned dollars to their sickly, cash-starved holding companies. So the banks are systematically cutting local borrowers' loans and credit lines.

The upshot: Deposits generated in places such as Lufkin are being used to re-finance shaky real-estate and energy loans in Dallas and Houston. And with the little banks left with little money to lend, local businesses are being squeezed—some right out of business. The big banks "are just choking the entire state," says F. Hagen McMahon Jr., executive director of the Independent Bankers Association of Texas.

What annoys everyone in Lufkin from a local Chamber of Commerce to the Baptist minister is that the little town had nothing to do with the energy and real-estate lending debacle in Houston and Dallas but is paying the price for it.

### Shifting Funds

As recently as 1985, nearly 66% of the deposits at the little banks now owned by

First RepublicBank were recycled back to the small towns as loans. Today, that total has shrunk to 41%, and \$1 billion once in borrowers' hands has vanished. And more than half the funds that its local banks invest in loans and securities have gone to Dallas, up from only 14% five years ago.

The never-ending crisis in Texas banking is panicking investors, who have lost millions of dollars. It's rattling the nation's capital, where administration officials fear that federal bailouts of Texas banks and thrift institutions, a third of which are insolvent, could increase the national budget deficit by more than \$10 billion.

But numbers of that magnitude mean little to the people in Lufkin (population 32,000) and similar Texas towns. What troubles them is that a Lufkin merchant who had banked without difficulty for 22 years now can't get a \$12,000 loan to repair the leaky roof of his store. Or that a local physician is being ordered to repay a \$10,000 note for no apparent reason. Or that one of their good friends is going out of business because the big-city bankers arbitrarily cut him off.

"Probably everybody that's in business in Lufkin has had their business whittled down or their borrowing power cut," says an auto dealer, whose own credit line was slashed 20%.

### Already-Ailing Economies

Lufkin's economy, like that of many towns big and small in the Southwest, had already been hit hard by the depression in the energy industry. Business and personal bankruptcies in East Texas have soared twentyfold since 1986. Thousands of mill workers, carpenters and oil-field rough-necks have lost their jobs. And now, as businessmen in Lufkin and other little towns turn to First RepublicBank and First City, the money-center banks that once promised them all the financial support they would ever need, they're getting little help.

In Lufkin, chicken farmers Edgar and Gilbert Burton recently filed personal bankruptcy petitions because their bankers refused to carry them until egg sales pick up in the fall. In nearby Henderson, Roger Ellis wakes up in the middle of the night because his Dallas-owned bank, which once promised him an endless supply of credit, is demanding that he pay off his construction company's note even though

he has never missed a payment. And in Temple, hundreds of miles west of here, a roofing company was ordered by its Dallas-controlled bank to either pony up a \$100,000 deposit or risk losing a \$200,000 credit line.

"The banks have gotten a little bit rough and a little bit mean," says James A. Jones, whose Piney Woods Tractor & Implements Inc. in Lufkin has lost sales because the banks refuse to finance some of his customers.

First RepublicBank, whose federal bailout is pending, and First City, whose federally aided \$1.5 billion restructuring was completed last month, both acknowledge that they are relying heavily on their small-town banks for funds, but they insist they're still lending money in the big cities and small towns. The problem, they say, is a lack of profitable opportunities anywhere in the state, and they are trying to limit risk.

In any event, a mixture of anger, frustration and feelings of betrayal lingers over Lufkin and other little logging towns nearby. That contrasts sharply with the spirit of optimism in such places a few years ago. Surrounded by abandoned paper mills and shut-in oil wells, these people had turned to the big-city bankers for help. Their own little banks were pressed for funds to expand, and the "friendly bankers" down at First RepublicBank and First City were offering to be helpful.

"The banks promised big stuff," says Roger Mercer, a Nissan dealer here.

And for a time they delivered, opening a spigot of easy credit that created a building boomlet and changed the face of these backwoods towns. Apartment complexes, motels and a country club soon sprouted around Lufkin. There was even talk of turning the area into a tourist mecca using Lake Sam Rayburn, the state's largest man-made lake, as a playground.

Alas, the "boys up in the glass tower," as locals now derisively call them, changed their tune. "They took virtually everything out of the control of the local banks," Mr. Mercer says. The arm-around-the-shoulders friendliness that once greeted customers has given way to straight-arming strapped borrowers. Locals are whispering about a "hit list" of customers that First RepublicBank Lufkin is pressing for repayment.

### Tractor Dealer's Trouble

First RepublicBank Lufkin recently summoned a Lufkin tractor dealer to the bank, where stone-faced accountants unfurled spread sheets showing the mortality rate of firms in his industry. It didn't matter that his loans were current. His company had lost money for two years running, and the odds were stacked against him. Bankers whom the businessman had never seen before said they would have to cut his credit line to \$50,000 from \$1 million. He was stunned: Without the big credit line, he couldn't finance his inventory, and sales would shrivel.

The tractor dealer eventually found financing at a small, locally owned bank and a large, out-of-town credit company. But he's still fuming. "The dang thing that backs me off is that all of a sudden I was a statistic and not an individual," he says.

Roger Ellis fears that soon he will become a statistic. For months, the 45-year-old construction contractor has been conducting a self-styled liquidation because First RepublicBank Henderson refused to refinance a \$250,000 loan. Mr. Ellis recently sold an excavator, two bulldozers and several trucks to cut his debt to \$130,000. But he had to lay off 20 of his 25 workers, and one supplier is suing him for unpaid bills. Meanwhile, he is again digging trenches with his backhoe during the day and going sleepless many nights worrying about his debts. "I feel like I've had all the wind knocked out of me," Mr. Ellis says. "I've been whipped down."

Local bankers acknowledge that corporate officials at First RepublicBank in Dallas have ordered all outlying banks to cut some commercial and real-estate lending. "The pressure is there to identify the problems," says H.J. "Jay" Shands III, the bank's 33-year-old chief executive whose family ran the Lufkin bank before First RepublicBank bought it. And he concedes that the bank's new owners, hard-pressed for deposits (federal regulators are pumping between \$2.5 million and \$3.5 million into the chain's banks each week), are enforcing credit policy rigidly.

"Our policy book was just as thick before the bank was sold," says Mr. Shands, pointing to a three-ring blue binder. "The only difference was we never read it."

Edgar and Gilbert Burton wish they never had. The two Lufkin chicken farm-

ers filed their bankruptcy petitions last month after First RepublicBank Lufkin refused to lend them the \$500,000 they needed to feed their 750,000 chickens and meet other obligations. The brothers already owed the bank \$2.5 million, and local officials told them that another loan would exceed the Lufkin bank's legal limit. They were told to plead their case with corporate officials at First RepublicBank Dallas, whose now-defunct agricultural-loan division had once lent the funds to purchase a second chicken ranch and just about anything else they wanted.

But their pleas fell on deaf ears. First RepublicBank Dallas "was broke than I was," Edgar Burton says. "If I had any money, they would have wanted to borrow it."

### Whole Town Upset

The hard line taken by "the boys up in the glass tower" is riling the whole town. In the midst of a meeting, a Lufkin attorney suing First City gets a call from a stunned physician who says one of the banks just ordered him to repay a \$10,000 note. The lawyer fuels the flames. "These damn people in Houston and Dallas sure are fangling things up, aren't they?" he says.

Charles S. McIlveene, the pastor of Lufkin's First Baptist Church, says donations had dropped so much that he held off filling two staff openings. Concerned about the church's ability to pay for a \$3.5 million expansion, the church opted for a three-year note on the project rather than a shorter term.

The credit squeeze is also creating emotional strain. The manager of Lufkin's Waldenbooks says that the store frequently runs out of "Overcoming Depression" and that tapes on how to deal with stress are a hot item. Local psychotherapists say cases of stress and family tension are soaring. Edgar Burton concedes that at first he was deeply depressed watching the family's business collapse after 33 years. "I've done my crying," he says.

Mr. Shands, the banker, is acutely aware of the pain his bank's credit squeeze is creating in Lufkin. "It hasn't been pleasant," he says. "I wish I'd been a school teacher."

*Shabel***first national bank  
glasgow, montana**

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MARCH 6 1989

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 13

DATE 3/6/89

BANK OF HELENA  
BILL NO. HB 191

TESTIMONY BY PAUL D. CARUSO, CHAIRMAN OF THE FIRST SECURITY  
BEFORE THE BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE IN FAVOR OF HOUSE BILL  
#191 TELLER FACILITY EXPANSION OF BANKING IN MONTANA.

FIRST: WE ALL MUST UNDERSTAND HB #191 IS DESIGNED TO SERVICE THE CONSUMERS  
OF ALL OF MONTANA. THIS IS NOT DESIGNED TO BE FOR THE BETTERMENT OF THE BANKERS-  
JUST CONSUMERS.

THE MONTANA INDEPENDENT BANKERS' PRESENT THE BILL TO MONTANA COMMUNITIES FOR  
THEIR BETTERMENT AND CONVENIENCE. THE BILL WAS NOT WRITTEN BY JUST A FEW BANKERS,  
BUT WE ASKED THE PUBLIC IN DIFFERENT AREAS OF MONTANA WHAT THEY THOUGHT WAS  
NECESSARY FROM THEIR VIEWPOINT FOR FINANCIAL SERVICES NEEDED FOR THEM AND BY  
THEM IN THEIR TOWNS AND CITIES. WE SOUGHT OUT CONSUMER GROUPS FOR THEIR OPINIONS,  
NECESSITIES, AND REQUIREMENTS OF BANKING SERVICES. THIS IS THE BILL IN FORM THAT  
YOU HAVE BEFORE YOU TODAY.

SECOND: THE MONTANA INDEPENDENT BANKERS DID NOT TAKE INTO CONSIDERATION IN ANY  
MANNER HB #151, WHICH WAS PRESENTED BY THE MBA. WE FOUND THEIR LEGISLATION TO  
BE SELF-CENTERED FOR A SELECTED GROUP OF BANKERS WITH BRANCHING, MERGING AND  
TAX BENEFITS. MIB DID NOT AND WILL NOT ADDRESS, NOR APPROVE THEIR PURPOSED  
LEGISLATION, IN OUR BILL. MERGER DOES NOT BENEFIT THE CONSUMER OR PUBLIC FOR  
ANY PURPOSE IN MONTANA.

THIRD: MIB BILL #191 DOES NOT REDESIGN THE BANKING SYSTEM IN MONTANA. IT  
WILL GUARD AGAINST UNDUE CONCENTRATION, AND BE EQUITABLE, UNBIASED AND HONEST  
TO ALL BANKS AND BANKERS IN MONTANA. WHETHER THEY ARE INDEPENDENT BANKERS OR  
CORPORATIONS, HOLDING COMPANY ASSOCIATIONS, STATE BANKS AND NATIONAL BANKS DOING  
BUSINESS IN OUR STATE OF MONTANA.

AS AN INDEPENDENT BANKER AND SUPPORTING THE MONTANA INDEPENDENT BANKERS GROUP,  
I REQUEST YOUR CONSIDERATION TO COMPREHEND THE SUPPORT OF "DO PASS" ON

HB # 191.

THANK YOU.

PAUL D. CARUSO



My name is Mike Burr, I am the Senior Vice President of the First Security Bank of Kalispell.

Chairman Thayer and committee members, I am here today to speak in opposition to HB 151. As a native Montanan and a graduate of the University of Montana, I am not against changing our banking laws, nor do I feel Montana citizens in communities without banks should be denied local banking services. I do, however, feel very strongly that the branch banking language contained in HB 151 does not help Montanans. Being a banker in Montana is a wonderful opportunity that we should be willing to preserve. In Kalispell's locally owned independent banks, most of the Senior Management positions are held by native Montanans and graduates of our University Systems. At Kalispell's Norwest and First Interstate banks all of the top management has been filled from outside Montana. Now why does HB 151 limit your children's or my or any future generations opportunity to be a successful banker in Montana? The answer is simple. If banks are merged and consolidated, if unlimited state wide branching is allowed, the chance to manage a true bank and not a branch in Montana will decrease from 168 opportunities to however many branches exist after the out of state interests finish. Why, you may ask, is being a branch manager so bad? Well, let's see who really does the managing. As we know, most of the credit decisions in the Norwest System are centralized in Billings and even further away in Minneapolis. What true responsibility and authority will a branch manager have? Not a great deal I assume. Furthermore, the American dream to own your own business, this time a bank, will be diminished substantially by unlimited branching.

ex. #14  
3/6/89

Idaho, for example, has approximately the same population as our state.

Idaho has had branch banking for many years. Idaho bank ownership has been reduced to just 25, Montana still has 168. Therefore, 168 opportunities exist in Montana <sup>for local ownership</sup> to be a President of a bank versus 25 chances in Idaho.

The amendments to HB 151 prohibit the First Bank System and the Norwest System from branching, even if this bill is passed. This may be discriminatory and could be challenged in Court, which would then allow these outside interests to fully penetrate any opportunities left for the present and future generations of our state.

In closing, you will also be considering HB 191 which allows for banking services in Montanan's unserved communities. Isn't this a better way to benefit our fellow citizens and still preserve the great banking opportunity in Montana for your children, my generation and the future generations of our state.

EXHIBIT NO. 15

DATE 3/6/89

or BILL NO. HB191

1. Unnecessary with passage of HB-151.
2. Consumer facilities too restrictive to be convenient or profitable.
  - A. Extended teller facilities services too limited
    1. Cashing checks ok
    2. Making deposits ok
    3. Need approval DOC to make loans
    4. Cannot provide safe deposit boxes
    5. Cannot assign account numbers
    6. Cannot open escrow accounts
    7. Cannot make money making change
  - B. Extended teller facilities placements too restrictive
    1. Limited to within 10 miles of any other bank or S&L. (East Helena, Pablo, etc. go with out)
    2. Cannot go beyond 25 miles unless within county.
    3. How can banks compete with Federal S&L's and credit unions who can go anywhere?
    4. A credit union located its facility next door to a bank in Kalispell.
  - C. Detached drive-up teller placements too restrictive
    1. Allows 3,000 feet placement from bank in Billings & Great Falls.
    2. All other towns still restricted to 1,000 feet limit.
    3. Cannot place drive-up within 200 feet of a S&L.
    4. Restricts banks ability to compete with Federal S&L's who are not subject to state law.
  - D. Automated teller machines placements too restrictive
    1. Limited to 25 miles unless within county.
    2. Retains 200 & 300 feet space limits
    3. ATM's usually shared - space limits unnecessary
3. Extended Teller Facilities are branches.
  - A. Page 2, Line 6-9; detached facilities do not "harm public policies underlying Montana's unit banking laws."
    1. Page 8, line 12-14; what is the difference between an EFT (with loan authority from DOC) and a branch? Does such a "facility" harm public policies?
    2. Illogical and contradictory.
4. "Main Banking House"
  - A. Page 6, lines 21-24; definition not practical as many banks do not have directors with "full voting authority over all lending decision" so as to avoid fiduciary liability and thereby attract successful people to serve on Boards.
5. Discriminates against one small state chartered S&L in Great Falls. Includes Federal S&L's, however they are not subject to state law so they didn't even bother to oppose the bill.

## CONCLUSION:

HB-191 provides very limited bank services to consumers and no profit incentive to construct extended facilities. As amended it contradicts the intent of the bill to restrict extended facilities to teller services only. It still tries to restrict competition in today's deregulated financial market and provides no means for banks to become more competitive. Please DO NOT pass HB-191.

## SENATE BUSINESS &amp; INDUSTRY

EXHIBIT NO. 16DATE 3/6/89BILL NO. HB 191

## COMPARISON OF HB-151 &amp; HB-191

|                                                                                                                            | HB-151                                                                                                                                      | HB-191                                                                                                                                                               |
|----------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Supported by majority of banks                                                                                          | Yes                                                                                                                                         | No                                                                                                                                                                   |
| 2. Helps small banks in small towns survive                                                                                | Yes                                                                                                                                         | No                                                                                                                                                                   |
| 3. Provides small towns full service branches                                                                              | Yes                                                                                                                                         | No                                                                                                                                                                   |
| 4. Requires local advisory boards                                                                                          | Yes<br>(Branches)                                                                                                                           | No<br>(Extended Teller<br>Facilities)                                                                                                                                |
| 5. Allows all banks to merge                                                                                               | Yes                                                                                                                                         | No                                                                                                                                                                   |
| 6. Enhances competition and greater convenience                                                                            | Yes                                                                                                                                         | Slight                                                                                                                                                               |
| 7. Effect on Economy                                                                                                       | Significant                                                                                                                                 | Slight                                                                                                                                                               |
| 8. Expansion of branches vs. extended teller facilities                                                                    | Any barren town in county or adjoining county                                                                                               | Any barren town in county or 25 miles from bank but not within 10 miles of a bank or S&L.                                                                            |
| 9. Services required in branches vs. extended teller facilities                                                            | All services offered at bank                                                                                                                | Deposits & check cashing only (Lending must be approved by state. Safe deposit boxes, etc. prohibited.)                                                              |
| 10. Effect on Jobs                                                                                                         | Increase<br>(More efficient = more competitive = more business = more jobs.)                                                                | Slight increase<br>(No incentive to construct multi-thousand \$ facility without lending authority.)                                                                 |
| 11. Effect on Taxes                                                                                                        | May increase<br>(Simultaneous merger required and all NOL's forfeited. More efficient = more business = more profits = <u>more taxes.</u> ) | May decrease<br>(Extended teller facility in adjoining county does not pay taxes to that county. Less efficient = less business = less profits = <u>less taxes</u> ) |
| 12. Expansion of detached drive-up, walk-up facilities                                                                     | One per bank up to 3,000 ft. <u>beyond city limits.</u>                                                                                     | One per bank up to 2,000 feet or up to 3,000 <u>feet from banks in Billings &amp; Great Falls.</u>                                                                   |
| 13. Expansion of automated cash machines                                                                                   | Any place in county or adjoining county                                                                                                     | Any place in county or within 25 miles of bank, S&L, credit unions.                                                                                                  |
| 14. Restrictions on Savings & Loans Associations (Savings Banks)                                                           | No change                                                                                                                                   | Prohibits branching                                                                                                                                                  |
| 15. Interstate banking                                                                                                     | No                                                                                                                                          | No                                                                                                                                                                   |
| 16. Statewide branching in towns with banks                                                                                | No                                                                                                                                          | No                                                                                                                                                                   |
| 17. <u>Out-of-state</u> banks (First Bank, Norwest, 1st Interstate Bancorporation) allowed to buy a failed bank and branch | No                                                                                                                                          | No                                                                                                                                                                   |
| 18. <u>Out-of-state</u> banks allowed to branch vs. extended teller facilities in barren towns?                            | No                                                                                                                                          | Yes                                                                                                                                                                  |
| 20. Local directors required for branches vs. extended teller facilities.                                                  | Community advisory Board with majority from county.                                                                                         | None Required                                                                                                                                                        |

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ATTORNEYS AT LAW

SENATE BUSINESS & INDUSTRY  
EXHIBIT NO. 17  
DATE 3/6/89  
BILL NO. HB 191

MEMORANDUM

TO: Montana Bankers Association

FROM: HOLLAND & HART  
Mark D. Safty  
David R. Chisholm

DATE: March 2, 1989

RE: Branch banking based on state savings  
and loan branching powers

---

You have requested a review of recent federal court and Office of the Comptroller of Currency ("OCC") decisions allowing national banks to branch to the extent state chartered savings and loans are allowed to branch. As you know, the OCC regulates national banks including the power to approve branching.

At the outset, it is necessary to note that the McFadden Act (12 U.S.C. §36) controls the power of national banks to branch. The McFadden Act provides that a national bank may establish and operate branch banks to the extent "state banks" are authorized by state law to establish and operate branches. 12 U.S.C. §36(c). As used in the McFadden Act, "state bank" specifically includes trust companies, savings banks or "other such corporations or institutions carrying on the banking business under the authority of state laws." 12 U.S.C. §36(h). The purpose of the McFadden Act is to maintain competitive equality between the state and national banks. See First National Bank of Logan v. Walker Bank and Trust Company, 385 U.S. 252 (1966).

In recent years, the OCC has interpreted "state banks" as including, in certain circumstances, state chartered savings and loans. To insure competitive equality for national banks when state chartered savings and loans are major participants in a state's financial industry and are allowed to branch, the OCC has allowed national banks to branch. See Decision of the Comptroller of Currency on the Application of Deposit Guaranty National Bank, Jackson, Miss., to establish a branch office in Gulfport, Miss. 4 OCC Qtrly. J. No. 3, at 69 (1985). The OCC reaches this conclusion by deciding state chartered savings and loans are, in certain cases, "state banks" under the McFadden Act.

HOLLAND & HART  
ATTORNEYS AT LAW

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The three primary federal court cases allowing the OCC's actions are Department of Banking and Consumer Finance of the State of Miss. v. Clarke, 809 F.2d 266 (5th Cir. 1987), Texas v. Clarke, 690 F.Supp. 573 (W.D. Tex. 1988) and Volunteer State Bank v. National Bank of Commerce, 684 F.Supp. 964 (M.D. Tenn. 1988). In each case, the OCC had determined that the respective state chartered savings and loans had powers much like banking powers and were therefore "state banks." The power to accept deposits and pay interest on accounts, offer checking accounts, act in fiduciary capacities, make personal loans, purchase, sell, lease and mortgage real and personal property and sell money orders and traveler's checks were powers supporting the OCC determination that the state chartered savings and loans were "state banks" under the McFadden Act. See Department of Banking and Consumer Finance at 271; Texas v. Clarke at 576; Volunteer State Bank at 967. In addition, the Texas v. Clarke court noted that Texas statutes allowed state chartered savings and loans to engage in any activity in which federally chartered savings and loans could engage, including offering demand deposits, making commercial loans and making investments in tangible personal property. Texas v. Clarke at 576; citing 12 U.S.C. §1464. Montana has a similar statute. M.C.A. §32-2-111. Each of the courts upheld the OCC's authorization allowing national banks to branch to the extent state savings and loans in the respective states were allowed to branch.

However, it is important to note that none of the above federal court decisions are controlling authority in Montana. Rather, a federal district court sitting in Montana must follow the decisions of the Ninth Circuit. The Ninth Circuit in 1979 ruled that a national bank may not branch simply because a national savings bank could branch. Mutschler v. People's National Bank of Washington, N.A., 607 F.2d 274 (9th Cir. 1979).

The Mutschler decision is contrary to the recent cases discussed above and has been criticized by the OCC and other courts for failing to take in account First National Bank in Plant City v. Dickinson, 396 U.S. 122 (1969). Whether the Mutschler decision stands or not, it is an obstacle to the OCC in allowing a bank to branch in Montana.

In addition to the obstacle created by Mutschler, it is not likely that Montana state savings and loans present the economic challenge to banks in Montana that exists in jurisdictions where the OCC has approved branching based on the powers of state chartered savings and loans. In allowing the national bank to branch in Mississippi, the OCC noted that Mississippi savings and loans are extremely active financial institutions. In particular, the OCC noted that 12.2% of deposits in Mississippi savings and loans

HOLLAND & HART  
ATTORNEYS AT LAW

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were deposits in transaction accounts. Further, in a telephone survey relied on by the OCC, approximately 27% of households in Jackson, Mississippi, obtained some of their banking services from savings associations with 21 of 300 households surveyed having their primary checking account needs met by savings associations. See 4 OCC Qtrly. J. No. 3, 69. Recent information indicates that Montana savings and loans are not as strong a competitive presence in Montana. In particular, Montana chartered savings and loans hold only \$40 million in assets and do not engage in significant branching. Since the state savings and loans are not strong competitive factors in Montana, the OCC is not likely encouraged to allow national banks to branch as in Mississippi, Texas and Tennessee.

Although a national bank could seek branching under the recent decisions, given the Mutschler decision and the OCC's reliance on state savings and loans being strong economic participants in the financial community as the basis for allowing national banks to branch, strong arguments exist that a national bank doing business in Montana would not receive permission to branch based on the branching powers of Montana chartered savings and loans.

TESTIMONY

March 6, 1989

Martin M. Olsson, Vice President, Ronan State Bank

Subject: House Bills 151 and 191

My name is Martin M. Olsson and I am a vice president with Ronan State Bank, a \$50 million independent bank chartered in 1910. We support House Bill 151 and oppose House Bill 191 because we feel House Bill 151 will provide better services to our customers and the necessary tools to our banks to allow us to compete more effectively in the financial services industry.

You have heard often conflicting testimony regarding the level of the bankers support for these bills, but I ask you to recognize that this is not an issue between the big chain banks versus the small independent banks. There are many small, independent banks like us, as well as several large chains that support House Bill 151. There are also several banking groups that support House Bill 191 such as First Interstate of Billings (the third largest banking group in Montana), the Harris family, Jack King, Buster Schriber and Phil Sandquist who have ownership interest in more than one bank. Who can really tell who is truly an independent



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bank or who is a member of a banking group? Even if we could tell, what difference would it make as long as the bank is competitively serving its market?

You have been told of chain banks that are not providing adequate levels of service to their communities, and from this you are asked to draw the conclusion that merger and consolidation is bad for banking in Montana. If this is true, what conclusions should be drawn from those independent banks that are not now adequately serving their communities? Does this mean that independence is also bad for banking in Montana? Or perhaps we should look to providing more competition in banking and allow those community banks that can provide convenient, competitive service to grow, while those banks both chain and independent that can't or won't provide adequate levels of service to their communities to fall by the wayside. This may sound a bit cruel, but isn't that how the rest of our economy works?

You have also been told that concentration of banking will result in fewer loans for Montanans in favor of out of state investments. I realize that I help manage a small community bank and that I do not understand the more sophisticated approaches of large banking, but in our shop good, bankable loans generate the majority of our income. I would guess this would also hold true for the larger banks and to remain profitable in a competitive

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market, those banks will have to seek out the good, bankable loans. If they are unable or unwilling, they should be replaced by a bank that will. Again, competition not legislation should be the key to better banking services.

It is time to set aside the age old rivalry between a few strong willed and vocal bankers and the so called "Minnesota Twins". This feud is counter productive to Montana's banking industry and is preventing us from facing the bigger problem posed from competition that is not as restrained. It is also time to end the protectionist banking environment that was designed to limit competition in hopes of reducing the risk of bank failure and recognize that well managed competitive banks will succeed while others may fail.

The success or failure of a bank, like any other business should be determined by how well the bank delivers its services in its market area and how profitable those services can be managed in a competitive environment. House Bill 151 will help provide the competition, but the profitability will be determined by the ability of the individual banks management.

Montana Independent Bankers )  
Fred Prevost, Lobbyist Intern )

Testimony Against  
House Bill 151

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 19  
DATE 3/6/89  
BILL NO. HB 191

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, FOR THE RECORD MY NAME IS FRED PREVOST, I AM AN INTERN WORKING FOR THE MONTANA INDEPENDENT BANKERS. MIB HAS ASKED ME TO SPEAK TO YOU TODAY BECAUSE OF MY PERSONAL KNOWLEDGE OF ONE OF NORTH DAKOTA'S BANKING SERVICES. I WAS BORN AND RAISED NOT FAR FROM THE NORTH DAKOTA STATE LINE. DURING THE YEARS I WAS EMPLOYED IN THE OIL AND GAS INDUSTRY, I SPENT A GREAT DEAL OF TIME WORKING IN NORTH DAKOTA. WHEN ONE CROSSES THE STATE LINE AS OFTEN I DID, ONE NOTICES THAT IN ALMOST EVERY SMALL COMMUNITY THERE IS A BANKING FACILITY. THESE FACILITIES ARE KNOWN AS PAYING AND RECEIVING STATIONS; THEY ARE THE EQUIVALENT TO HB 191'S EXTENDED TELLER FACILITY. IN NORTH DAKOTA'S FACILITIES, BANK CUSTOMERS CAN MAKE DEPOSITS AND WITHDRAWALS, CASH CHECKS, MAKE LOANS PAYMENTS, ALL THE TRANSACTIONS THAT MAKE UP A MAJORITY OF A BANKS DAILY BUSINESS. THE STATE OF NORTH DAKOTA HAS ALLOWED THE ESTABLISHMENT OF THIS TYPE OF FACILITY SINCE 1937. I'VE DONE SOME RESEARCH AND FOUND THAT AT PRESENT THERE ARE 75 PAYING AND RECEIVING STATIONS IN VARIOUS SMALL TOWNS AROUND THE STATE. IT IS VERY UNLIKELY THAT THESE COMMUNITIES WOULD HAVE ANY TYPE OF BANKING FACILITY IF ONLY BANK BRANCHING WAS ALLOWED. JUST AS IN MONTANA, SMALL NORTH DAKOTA COMMUNITIES LIKE ALEXANDER, NOONAN, AND KENMARE DO NOT HAVE ECONOMIES THAT CAN SUPPORT A FULL BRANCH. NORTH DAKOTA'S LAW ENABLES CONSUMERS IN SMALL COMMUNITIES TO HAVE THE BANKING SERVICES THEY NEED. MONTANA'S CONSUMERS COULD GREATLY BENEFIT FROM THE SAME TYPE OF BANKING FACILITY AND HB 191 PROVIDES THE STATE WITH JUST THAT. WE URGE YOUR CAREFUL CONSIDERATION OF WHAT MONTANA'S CONSUMERS REALLY NEED AND ASK THAT YOU GIVE HB 191 A FAVORABLE REPORT.

## WITNESS STATEMENT

SENATE BUSINESS &amp; INDUSTRY

EXHIBIT NO.

20

DATE:

3/6/89

BILL NO.

HB 151

NAME:

Keith L. Colbo

ADDRESS:

1037 Cedarwood, Helena, MT

PHONE:

443-4610

REPRESENTING WHOM?

MT Independent Bankers

APPEARING ON WHICH PROPOSAL:

H.B. 151

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

✓

COMMENTS:

See exhibit 21

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

March 6, 1989

SENATE BUSINESS AND INDUSTRY COMMITTEE

10:00 a.m. - Room 410, Chairman, Gene Thayer

Darryl Meyer  
Paul Boylan  
Tom Hager  
J.D. Lynch

Harry "Doc" McLane  
Jerry Noble  
Cecil Weeding  
Bob Williams

- I. Introduction - Keith Colbo representing the Montana Independent Bankers.
- II. Testify in opposition to H.B. 151 - The Branching Bill.
- III. Testimony to focus on three areas drawn from my experience as Director of the Montana Department of Commerce and as Chairman of the Montana State Banking Board for four years. While at the Department, I was able to stay detached from this issue.
  - A) Montana bank structure performance
  - B) Economic development in Montana
  - C) Changes in Montana's financial industry and the costs and risks associated with those changes
- IV. Montana Bank Structure
  - A) The Montana bank structure has evolved to meet the particular needs of our state citizens and economy.
  - B) It is a competitive playing field, not a tilted field as some would represent.
  - C) The Montana banking industry has been and continues to go through some very difficult times.
    - 1.) Bank Closures

- 2.) Bank Sales - Banks do sell
  - 3.) Banks in trouble
  - 4.) We are not out of the woods yet
- D) We have survived intact with our bank structure suited to Montana.
- E) Governors Council on Economic Development has recommended a review of the banking structure looking toward the availability of services - they did not endorse branch banking.

V. Economic Development in Montana

- A) The evolving Montana economy -- Small businessman and women
- B) I-95, The Montana Coal Tax Loan Program
- Adamantly opposed by the President of the Montana Bankers Association
- C) Program Status
- 1.) Since inception, there have been \$68 million in loan applications.
  - 2.) \$32 million invested in 202 loans
  - 3.) 125 current loans outstanding, five delinquent all guaranteed by a federal program. Not a bad performance by any standard.
  - 4.) Of the 200 loans, a full 160 or 80% have been initiated by one group of bankers, the independent bankers, and 40 or 20% by holding company banks.
  - 5.) Availability of quality loans
  - 6.) Holding company banks can cite equally

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impressive numbers for Montana, indeed they should be impressive. They are driven by the state's needs, not by a particular bank structure. That is what you must consider, what changes need to be made to best serve the citizens and economy of this state.

7.) Report - Commercial Bank Lending Patterns and Economic Development in West Virginia (MT).

a.) Bank structure plays a role

b.) Attitude is determinate

8.) H.B. 151 is not a solution to loan ratios or lending attitudes.

VI. Changes in Montana's financial industry and the costs and risks associated with those changes.

A.) A bank application can be an expensive and <sup>Time Consuming</sup> complicated process, costing as much as \$25,000 <sup>and more.</sup>

B.) Merger proposals will require a similar process and cost as a bank application and similar diligence and consideration by the Department and <sup>1) New & Demanded</sup> the State Banking Board. <sup>Section 32-1-203 MCA</sup> 2) Manage

C.) Detached facilities to serve consumers are a much <sup>3) Public Interest</sup> simpler and less costly process already in place.

VII. Committee Considerations

A.) How will H.B. 151 affect consumers?

B.) How will H.B. 151 affect loan availability?

C.) How will H.B. 151 affect Montana's banking structure, particularly small communities?

ex #21

3/6/89

H.B. 151

- D.) Where will bank resources be focused and decisions be made?

#### VIII. Conclude

- A.) Montana's banking structure should be improved, not for banks, but for the consumers and to better serve the state as we know our needs. *AND ECONOMIC structure.*
- B.) Our banks, all of them, have served us well. Changes to that structure should be made gradually so that the system can evolve in a logical and predictable manner.
- C.) There is a better alternative to accomplish these goals than the singular act of passing H.B. 151 in its current form.



## WITNESS STATEMENT

SENATE BUSINESS &amp; INDUSTRY

EXHIBIT NO. 22DATE 3-6-89BILL NO. HB 151NAME: MARY B CARLSONADDRESS: P.O. Box 1147 Helena MT 59624PHONE: 442-3540REPRESENTING WHOM? MBA / Anderson for MuehlenbachsAPPEARING ON WHICH PROPOSAL: HB 151DO YOU: SUPPORT? XXX AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENTS: \_\_\_\_\_

See attached - Exhibit 23

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

*Carlson*

March 6, 1989

Testimony before the Senate Business & Industry Committee

House Bill 151 - Bank Restructure Act

Mr. Chairman & Members of the Committee

GARY B. CARLSON, CPA

SHAREHOLDER - ANDERSON ZURMUEHLEN & CO., P.C. CERTIFIED PUBLIC ACCOUNTANTS

I offer for your consideration an independent analysis of the MBA / MIB arguments prepared for the Montana Association of Counties, dated January 30, 1989. I believe this independent report supports the MBA positions.

Additionally, I have attached our response, dated February 22, 1989, to an Office of the Legislative Auditors letter dated February 9, 1989, addressed to Representative Glaser. I feel the positions reflected in my response regarding the filing of consolidated corporate tax returns will be supported by the Department of Revenue. The Office of the Legislative Auditor's analysis, in my opinion is fundamentally flawed regarding the filing of corporate income tax returns and should not be relied upon.

NOT A TAX BILL

It is important to note, House Bill 151 does not change any existing tax law or regulation, and does not add any new tax provisions.

I am available to answer your questions related to tax issues of bank merger.

(This sheet to be used by those testifying on Bill ) 24

DATE 3/6

NAME: John Buchanan

BILL NO. HB 151 & HB 17

DATE: 3-5-89

ADDRESS: PO Box 1643 Get Falls 59403

PHONE: 761 0372

REPRESENTING WHOM? Fidelity S & L

APPEARING ON WHICH PROPOSAL: 191 & 151

DO YOU: SUPPORT?            AMEND?   L   OPPOSE?   L  

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

## VISITORS' REGISTER

1064

Senate B+I

COMMITTEE

BILL NO. HB 151

DATE

3/6/89

SPONSOR \_\_\_\_\_

| NAME (please print)     | RESIDENCE       | SUPPORT | OPPOSE |
|-------------------------|-----------------|---------|--------|
| <del>AB CARLSON</del>   | CLANBY          | X       |        |
| Bruce Thomson           | Helena          | X       |        |
| Rep. Manuel             | Helena          | X       |        |
| TERRY FOSTER            | Dept of Revenue |         |        |
| JOHN CAPPY              | MT BARKER ASN   | X       |        |
| MARTIN M OLSEN          | ROMAN, MT       | X       |        |
| MARK SAEY               | BILLINGS MT     | X       |        |
| John "Bud" Lawrence     | Warden, MT      | X       |        |
| <del>Bob S. Simon</del> | Chinook MT      | X       |        |
| Tim Barnett             | Killdeer, MT    | X       |        |
| John W. With            | Opplaw, MT      | X       |        |
| Bill Pearson            | Billings, MT    | X       |        |
| <del>Bill Pearson</del> | Billings        | X       |        |
| Sam Daniel              | Troy MT         | X       |        |
| EARL D. LADICK          | Libby           | X       |        |
| GEORGE T. BENNETT       | HELENA          | X       |        |
| Symon Gubel             | Glasgow         | X       |        |
| Keith L. Colbo          | Helena          |         | X      |
| Roger Tippi             | Helena          |         | X      |

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Business & Industry COMMITTEE

BILL NO. 151

DATE 3/6/89

SPONSOR Swift

| NAME (please print) | RESIDENCE | SUPPORT | OPPOSE |
|---------------------|-----------|---------|--------|
| Bruce Gulick        | Bozeman   |         | X      |
| Jayne Gibson        | Bozeman   |         | X      |
| Tom Dowlings        | Helena    |         | X      |
| Joe Shales          | Helena    |         | X      |
| Frank Tack          | Helena    |         | X      |
| Sam Moore           | Cascade   | X       |        |
| Mat Malsk           | Conrad    |         | X      |
| Paul V. Venter      | HELENA    |         | X      |
| Mike Burk           | Kalispell |         | X      |
| John Buchanan       | Fidelity  |         | ✓      |
| Steve Browning      | Helena    | X       |        |
|                     |           |         |        |
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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM  
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

DISPOSITION ON HOUSE BILL 706

Recommendation and Vote: Senator Lynch made a motion HB 706 BE CONCURRED IN AS AMENDED. Senator Meyer seconded the motion. The Motion Carried Unanimously. Senator Williams carried HB 706 on the Senate floor.

DISPOSITION ON HOUSE BILL 339

Discussion: Chairman Thayer told the committee they had three pieces of written information before them, which had been handed in since the hearing. (See Exhibits #2, #3, #4) he asked Senator Lynch to explain the bill.

Senator Lynch stated that as soon as the cap was placed on the bill, the opponents and proponents switched sides. He said that if the Senate removed the cap, the bill would be killed in the House, so he thought the bill should be tabled.

Recommendation and Vote: Senator Lynch made a motion to TABLE HB 339. Senator Williams seconded the motion. The motion Carried Unanimously.

DISPOSITION ON HOUSE BILL 151

Discussion: Senator Lynch said some of the bankers had a problem with this bill. He said his area had a variety of banking choices, and he was pleased the independent bankers were in favor of the bill.

Recommendation and Vote: Senator Williams made a motion HB 151 BE CONCURRED IN. Senator Hager seconded the motion. Six Senators voted in favor of the motion, and Senator McLane, Senator Boylan and Senator Meyer opposed. The Motion Carried. Chairman Thayer carried HB 151 on the Senate floor.

DISPOSITION OF HOUSE BILL 191

Recommendation and Vote: Senator Noble made a motion to LAY HB 191 ON THE TABLE. Chairman Thayer called for a second. Senator Lynch asked why they didn't just kill it?

Senator Lynch said proponents of the bill should have the opportunity to vote "NO" on an adverse committee report.

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

DATE 3/8/89

51st LEGISLATIVE SESSION 1989

| NAME                             | PRESENT | ABSENT | EXCUSED |
|----------------------------------|---------|--------|---------|
| <u>SENATOR DARRYL MEYER</u>      | ✓       |        |         |
| <u>SENATOR PAUL BOYLAN</u>       | ✓       |        |         |
| <u>SENATOR JERRY NOBLE</u>       | ✓       |        |         |
| <u>SENATOR BOB WILLIAMS</u>      | ✓       |        |         |
| <u>SENATOR TOM HAGER</u>         | ✓       |        |         |
| <u>SENATOR HARRY MC LANE</u>     | ✓       |        |         |
| <u>SENATOR CECIL WEEDING</u>     | ✓       |        |         |
| <u>SENATOR JOHN "J.D." LYNCH</u> | ✓       |        |         |
| <u>SENATOR GENE THAYER</u>       | ✓       |        |         |
|                                  |         |        |         |
|                                  |         |        |         |
|                                  |         |        |         |
|                                  |         |        |         |
|                                  |         |        |         |
|                                  |         |        |         |
|                                  |         |        |         |

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

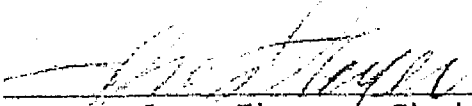
March 8, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration HB 151 (third reading copy -- blue), respectfully report that HB 151 be concurred in.

Sponsor: Swift (Thayer)

BE CONCURRED IN

Signed: 

Gene Thayer, Chairman

*Handwritten:*  
D.C. 3/8/89  
3:20 p.m.



# ROLL CALL VOTE

SENATE COMMITTEE BUSINESS & INDUSTRY

#1

Date 3/8/89 Bill No. HB 151 Time 11:21

| NAME                        | SEAT<br>NO. | YES | NO |
|-----------------------------|-------------|-----|----|
| SENATOR DARRYL MEYER        | 35          |     | ✓  |
| SENATOR PAUL BOYLAN         | 50          |     | ✓  |
| SENATOR JERRY NOBLE         | 34          | ✓   |    |
| SENATOR BOB WILLIAMS        | 39          | ✓   |    |
| SENATOR TOM HAGER           | 42          | ✓   |    |
| SENATOR HARRY "DOC" MC LANE | 33          |     | ✓  |
| SENATOR CECIL WEEDING       | 28          | ✓   |    |
| SENATOR JOHN "J.D." LYNCH   | 5           | ✓   |    |
| SENATOR GENE THAYER         | 23          | ✓   |    |
|                             |             |     |    |
|                             |             |     |    |
|                             |             |     |    |

*Carla D. Turk*  
Secretary, CARLA TURK

*Gene Thayer*  
Chairman, GENE THAYER

Motion: Senator Williams made a motion HB 15  
Be Concurred in. Senator Hager seconded  
the motion.

passed